
Minority Government and Public Servants

by David A. Good

It has been a generation since Canada has had a minority government and much has changed in the way that public administration and the business of government is carried out. This article examines some of the implications of the new Liberal minority government for the public service and what it means for how public servants do their work. What challenges emerge for the public service, what opportunities?

During the last 30 years majority governments have been the norm with seven majority parliaments and only one, short-lived nine-month minority government – the Conservative Clark government of 1979. In stark contrast, during the previous 17 years – from June 1957 to July 1974 – there were five minority parliaments, interspersed by just two majority governments.¹

Since confederation there have now been ten minority governments. Their tenure has varied significantly depending in large measure on whether the governing party secured willing partners among the opposition parties. All five minority Liberal governments sought and found partners, with the closest collaboration occurring in the 1972 Trudeau minority government. The NDP formed an alliance (not a coalition) with the Liberals and the government's policy agenda moved to the left. Every policy proposal and all legislation was discussed between the two parties, and only when agreement was reached did the Liberal government introduce the bill confident that with NDP support it would pass. As a re-

sult the House operated for a year and half in a fairly predictable manner. The accommodation collapsed when the NDP voted against John Turner's 1974 budget, with the Liberal government seeking defeat over a budget it had deliberately crafted to sell in an election.

In one of the two Mackenzie King minority governments (1922-25) and in the two Pearson minority governments (1963-65 and 1966-68) the relationships with the opposition parties were not as close as the Trudeau alliance with the NDP in 1972. Nonetheless, these King and Pearson governments were relatively dependable. In the 1920s the opposition Progressives had a certain affinity with the King Liberals (they eventually joined them) so the Liberal government could tailor its policies to gain support. In the 1960s the two Pearson governments proved to be relatively stable and productive. Only the 1926 King minority government was unstable with the Governor General denying Prime Minister King's request for dissolution of the House of Commons in June thereby leading to the so-called "King-Byng constitutional crisis".

The other four minority governments were short-lived for a variety of reasons. The 1957-58 minority government lasted just nine months with Prime Minister Diefenbaker calling an election as soon as he was satisfied he could achieve a majority. The demise of the second Diefenbaker minority government in 1963 after 8 months was the result of sharp divisions within Cabinet over whether to accept nuclear warheads on Bomarc de-

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fence missiles, with the Liberals accepting the warheads and several Conservative ministers joining the Liberals in voting to defeat a supply motion. The minority government of Joe Clark (1979) lasted just nine months, largely because he decided, “to govern as if we had a majority”. Meighen’s government of 1926 was defeated in three days since he had to appoint acting ministers (under rules of House at that time), a practice which King used to discredit the new government.

Our Tenth Minority Government

What do we make of this our tenth minority government? How stable it will be and how long it will last no one can say for sure. Experience suggests that the degree of stability and predictability of a minority depends upon a number of factors:

- The relative number of seats held by the government party and the opposition parties;
- The relative size of the national vote for the government party and the opposition parties;
- The leverage that opposition parties can secure in supporting the governing party;
- The ideological differences and relationships between the parties; and
- An assessment by each party about how well it would fare in a new election.

Applying these factors to the current situation and in light of the nine other minority governments, I would conclude that overall this minority government is relatively stable, although not necessarily highly predictable. There is an underlying fragility because the government does not have an arrangement of support from a single opposition party. Instead, it will be depending on varying degrees of support at various times from various parties. Even if Mr. Martin’s previously proposed democratic reforms are implemented to restrict votes of confidence to debates on the Speech from the Throne, the Budget, and the Estimates they will not appreciably increase the stability of the minority government. Much therefore will depend on the skill, good will, and cooperation of the leaders and their parties.

The electorate appears to have given Paul Martin a second chance after his dismal failure to govern and the significant inadequacies of his election campaign in the face of deep public concerns about the sponsorship scandal. But the electorate have put the government on a very tight leash. The Liberals have 135 seats (36.7 % of the popular vote) compared to 99 seats (29.6 % of the popular vote) for the Conservatives. The Liberals have representation in all regions of the country, although their western representation continues to be slim. Combined with

the NDP (which has 19 seats with 15.7% of the vote), there are only 154 seats, which is 1 shy of the number necessary to command a majority in the House of Commons. The Bloc has 54 seats with 12.4% of the national popular vote and 50% of the Quebec vote. There is 1 independent MP. To command a majority the government will need support from the Bloc, the Conservatives, a combination of the NDP with the independent MP or with another party, or any combination of 20 MPs.

This makes the situation different from the Trudeau minority of 1972 where there was a relatively stable alliance with the NDP lasting 18 months. The large size of the separatist Bloc support, equal to its high-water mark immediately following the failure of the Meech Lake Accord increases significantly the uncertainty and will likely elevate regional tensions. The Prime Minister has clearly indicated that he will not form an alliance or coalition with any one party or group of parties, but will cooperate with all parties seeking support from parties and members depending upon the specific issue at hand. The public does not seem anxious for another election. Many voters who wanted and voted for a minority government now want to see it work.

What does this mean for the public service and for how public servants go about doing the business of government?

The Public Service in Minority Government

The role of the public service is, of course, to support the government of the day, to carry out and implement its agreed program and to tender professional non-partisan policy advice. In short, the job is “to speak truth to power” – to be fearless in policy advice and loyal in implementation. In minority governments this does not change, but the political and Parliamentary environment within which policy advice is considered and programs are implemented has changed significantly. The implications for the public service are best considered in terms of four dynamics or interactions:

- The dynamics within the governing party;
- The interactions between the governing party and its supporting party or parties;
- The dynamics within the major opposition party; and
- The interaction between ministers and Members of Parliament, including government, supporting, and opposition members.

Minority governments lack the predictability and stability that comes with majority governments and therefore they are constantly sniffing out the mood of the

electorate and assessing public opinion. The possibility of an election is always just around the corner and therefore the views of the electorate are of immediate importance. For public servants this means that in general they are in pre-election mode with governments shaping their policies and programs in terms of how they will be perceived by voters in an upcoming election. The government will be looking more than ever for “error free government”. They do not want mistakes. This places a premium on prudent and sound advice in matters of both administration and policy. The Liberal minority government will feel more vulnerable than previous minority governments to opposition and media attacks that find their origins in reports of the Auditor General whose credibility with the public is very high in the aftermath of the sponsorship scandal. When it comes to the management and administration of government programs the focus will be on avoiding and minimizing risk rather than pursuing innovation and creativity.

The government will be anxious to deliver on a number of priorities early in its mandate so that it has in place a record of accomplishment to distinguish itself from its principal opposition. There will be much focus on implementation.

The premium for public servants will be on speedy but thorough implementation of programs and projects, timely follow-up, flawless execution, and effective and smooth delivery of key priorities.

There is also expected to be some greater discipline within the governing party itself. (Recall in Diefenbaker’s second minority government it was rancour and dissension from within his own cabinet that brought down his government). Government MPs recognize that the fate of government depends upon their support leading them to adhere more closely to the party line. Similarly ministers aware of the consequences of ignoring government MPs tend to be more attentive to their concerns. The result can lead to a greater coherence within the governing party, with the government caucus being an important vehicle for cementing views rather than fermenting internal opposition.

All this has important implications for the public service. The requirement for public policy that is, popular with the electorate, can be quickly delivered, and readily distinguishable from the opposition may not always be consistent with the necessity for “error free government”. In the face of a multiplicity of pressures, it will be

even more important that public servants “speak administrative truth to political power”. Pointing out to Ministers the policy and administrative problems associated with a seemingly popular initiative and coming up with practical solutions will be important work for public servants. In a minority world where Ministers already feel the heavy weight of major constraints, public servants will need to be particularly skilful in tendering advice that may not always be popular and devising solutions that are not easy and readily apparent.

Policy and legislation will be the subject of extensive private discussion and negotiation between the designated minister(s) of the governing party and the designated MP(s) of the supporting party or parties before it is introduced in the House of Commons and announced publicly. In a fluid environment with several floating arrangements of possible support, the prospects for surprise and uncertainty will increase. The Liberal government will be seeking out different arrangements and alliances with different parties and MPs for different policy and legislative initiatives. For example, it will turn to the NDP for support on such initiatives as health care, early child development, and the cities agenda, to the Bloc and the NDP on climate change and it could turn to the Conservatives for support on defence and the missile shield. How these specific arrangements work or do not work on any one issue will determine how they are used or not used on future issues.

For public servants this will increase the likelihood of surprise and significantly increase the demands for quick and immediate response and adjustment to policy proposals and legislation. The possibility for surprise will occur before policy is debated or legislation is introduced in the House and before and during consideration of proposals at Federal-Provincial and First Ministers meetings. Surprise will also occur when legislative proposals are amended in Committees of the House in which a majority coalition of support will be required for passage. The increasing influence of MPs in Committees that emerged in the last two Parliaments will be given greater focus and momentum in this Parliament. All this will require a public service that can offer a combination of anticipatory analysis, the generation of more than the normal number of options, and considerably more sophisticated contingency planning. This must be done under the intense scrutiny of the media with its skill in accessing critical government information and in transforming daily events into sensational stories. It will also require a fast-footed and flexible public service that can quickly react and adjust to the changes and pressures that could not be anticipated. In short, public servants will need to think creatively, act flexibly, but be prudent.

Facilitating agreement and compromise between the Liberal government and NDP and the Bloc on specific initiatives will be facilitated and smoothed through increased fiscal resources. On a number of social policy issues, such as health care, children, cities, same sex marriage, and other human rights issues, the Liberals and the NDP share common ground. There will be increased pressures on the fiscal framework for new and increased expenditures. The oft-repeated Liberal election commitment to “fix” medicare and the window of opportunity for the provinces and territories to push Ottawa to take on costly program responsibilities such as pharmacare and to seek dramatic increases in transfer payments will be the focus of much of the fiscal woes of the Liberal government. Not wanting to run the risk of going back into deficit and being unwilling to expand an already tight fiscal framework the Liberal minority government will put the public service under considerable pressure to find new sources of funds through difficult and tricky expenditure reallocation. Cuts will need to be made somewhere to provide new funding for something else. Mr. Martin’s high-profile promise for “a continuous culture of reallocation”, previously conceived under different and more stable circumstances will be sharply put to the test under the pressures of minority government.

In this minority government we can expect to see budgeting by reallocation, which is fundamentally different than budgeting by addition or budgeting by subtraction. The basic concepts of “fair share” in budgeting by addition and “equal sacrifice” in budgeting by subtraction, both critical in “making life tolerable for politicians” go out the window. Winners and losers sit side by side. The wins are big and the losses even bigger. Because so much goes on in one place or close to one place, and because cuts and increases need to be linked, there is little opportunity for the healing effects of distance and time. This is budgeting for the tough and strong, not for the meek and mild. This is budgeting that is “in your face, up front, and personal”. This is budgeting that is open for all to see. Budget conflict inevitably increases and its corrosive effects will need to be managed with great skill and care. A good part of the job of providing comfort and support to the losers in the reallocation game might by default fall to a number of senior public servants.

The key question in reallocation is what resources go to the centre and what stay within departments. When the centre puts “everything under the microscope” it takes what it sees and also some of what it imagines. In minority government don’t expect savings to stay with departments. Savings will come to the centre to help underwrite the costs of priorities – health, child development, cities, etc. Similarly do not expect new funding to

be provided to the public service to underwrite the costs of its personnel, capital, information technology, policy analysis, program delivery, and administration. The experience in 1999-2001 with reallocation in the form of the Treasury Board-led “program integrity” and “departmental assessment” exercises was unsuccessful. The reviews identified expenditure shortfalls in critical areas of government operations (e.g., capital and information technology), yet securing funds for these shortfalls through visible reallocations resulted in increased budget conflict and proved impossible. A system of continuous expenditure reallocation in minority government will only add to the under-funding of government operations over the long run.

The Liberal minority government may find that reallocation is simply too painful to implement. It may also find that a time-limited minority parliament unleashes an onslaught of big demands from a host of spenders who are determined to capitalize on a narrow window of opportunity in the aftermath of restraint and downloading. At the top of any such list will be disgruntled Premiers who want large increases for health care in the form of escalating multi-year funding; social policy advocates who have faced a decade of expenditure restraint despite new and pressing social needs; a military with strong claims that it is under-equipped, under-staffed, and under-funded; the NDP which is committed to large expenditure programs despite a previous suggestion that it would balance the budget; and the Bloc who will argue single-mindedly for expenditures for Quebec and seek out provincial support to reduce fiscal imbalance within the federation.

An alternative scenario therefore might be to expand the fiscal framework in order to underwrite the costs of new initiatives sufficient for maintaining political support. This would avoid the divisiveness and conflict inherent in reallocation. It would however provide the opposition Conservatives with the combustible fuel necessary to ignite and fire a subsequent election and extinguish a general perception that Mr. Martin has had a good record of fiscal management.

Money will not be the only means for facilitating agreements between the government and various opposition parties. There will be pressure on the public service for increased administrative flexibility. More than other countries Canadian federal ministers and MPs have always taken great interest in how programs are implemented and administered. In minority government this interest is likely to increase as governments and opposition parties seek out more political space and territory on which they can negotiate and cut deals. In minority government there is risk that the traditional administrative

space of public servants, which is already in a state of flux, confusion, and uncertainty will be under increased and accelerated pressure through the incursions of politicians.

In the early mandate of a majority government, there is little or no prospect of the opposition immediately forming government. Opposition parties can develop policy positions and undertake tactics confident that they will not suddenly be called upon to take responsibility for their words and actions. This is not the case in a minority government, with the result that the official opposition party tends to be more prudent and less extreme. Depending on the particular circumstances, this natural inclination for prudence by the opposition could well be very useful for Mr. Harper and parts of his Conservative Party who may want to fashion an image for the electorate of a leader and a party that is moderate and responsible. In addition, the NDP may soon learn that the cost of directly influencing the policies and legislation of the government comes at a price, as they must temper their positions and behaviour in the House, in the committees, and in the media. Although these dynamics should not be overestimated they can contribute to stability in minority governments.

Public servants will need to accurately assess the administrative and managerial risks that could lead to public embarrassment and to ensure they have in place effective administration and carefully crafted strategies to deal with them.

The most significant attacks on government can be expected to focus on where the opposition and the public perceive it to be most vulnerable. It is likely to continue to be less in the area of policy and more in terms of accountability, mismanagement, and allegations of corruption. With the ongoing judicial inquiry and investigations of the sponsorship scandal the opposition will be left with a number of high-profile opportunities to pursue these issues. There will also be considerable effort by the opposition, surrounded by a probing press, an attentive public, and a publicly credible Auditor General to attempt to uncover more scandals. In this environment there is increased risk that minor administrative mistakes internal to government are cast as major public scandals. Experience has indicated that first impressions usually become lasting impressions.

Ministers in minority government understand instinctively that their success is fundamentally predicated on

sustaining good working relationships with MPs, both government and opposition. Minority governments are one way to reduce the democratic deficit. MPs are no longer simply “backbenchers”. All MPs count and they are always being counted. MPs have an interest in supporting their own parties but they also have an interest and an expectation in securing benefits for, and meeting the needs of, their local constituents. The public expects minority governments to serve citizens and for MPs that means attending to their ridings and their constituents.

This has several implications for the public service. The regional and local aspects of public policies and programs will be of increased concern to government and opposition MPs. MPs as individuals and as members of regional caucuses can be expected to press hard for tailoring policies and programs to address the unique concerns and needs of their constituents. This can result in vigorous attempts to configure and shape national programs to accommodate regional interests and to ensure that constituents and regions receive their fair share of regional programs. In addition, there may also be pressure to increase the role of individual MPs in the formal decision-making process of regional programs and projects in an attempt to make these initiatives more sensitive and responsive to the unique needs of constituents.

This will require a public service that is closely attuned to regional and local issues so that these issues, driven with greater force and determination by MPs can be effectively managed in way that is coordinated, affordable, and respects the political neutrality of public servants and their accountability to ministers. Calls for increasing the decision-making role of MPs on individual programs and projects are fraught with great risk and considerable problems. The recent experience of the HRDC Canada Jobs Funds clearly demonstrates that formal decision-making roles for MPs on programs and projects confuses accountability and ministerial responsibility and can undercut the perceived political neutrality of public servants. Such calls should be turned down and turned away.

Strengthening Accountability

Minority government will create new challenges for the public service, but it may also create new opportunities. The strains and stresses of minority government may add to the accountability pressures facing public servants, ministers, and Members of Parliament. Indeed, it is increasingly argued that accountability in government is one area most in need of reform.² Interestingly a minority government could provide a window of opportunity for change and the occasion to strengthen accountability. It could also reinforce the demand and the need

for public servants to “speak truth to power”. Nick d’Ombrain, a former senior official in the Privy Council Office and an expert in the field of machinery of government and accountability has done great service in clarifying the doctrine of ministerial responsibility. He writes, “It is now accepted by many that it is unreasonable to hold a minister personally responsible for the errors of administrative subordinates and that career officials can and should answer to parliamentary committees for administrative matters, but not for policy or politically controversial issues”.³ The key words are the last seven and I will return to them in a moment.

This thinking in a minority government context could provide the basis for the consideration of a new concept in accountability in the Canadian government. I am speaking of the concept of the principal accounting officer – a long established tradition in Britain. The essential idea is to create some administrative space for public servants while respecting the doctrine of ministerial responsibility. How would it work? As principal accounting officers, Deputy Ministers would have personal responsibility for the overall organization, management and staffing of their departments. They would have to ensure that standards of financial management are high, that financial systems promote efficient and economical conduct of business and safeguard financial propriety and regularity, and that decisions on policy fully take into account financial considerations.⁴

Accounting officers therefore would have a particular responsibility to provide appropriate advice to ministers on all matters of financial propriety and economical administration.

If a minister considered an action that would infringe on these matters, the principal accounting officer would be required to object in writing to the minister. If a minister decided to proceed with the action, the accounting officer would be obliged to obtain a written instruction from the minister and then inform the Treasury Board, the Comptroller General, and the Auditor General. If this procedure were followed the Public Accounts Committee would hold that the officer bears no personal responsibility. This is hardly a new proposal for the Canadian federal government. The proposals for strengthening accountability by the Lambert Commission in 1979 and in the McGrath report in 1985 were based on the UK practice of designating Deputy Ministers as principal accounting officers. But, of course, while the traditions and

cultures in these two governments are similar, they are not the same. Let us return to d’Ombrain’s seven key words: “not for policy or politically controversial issues”.

For the principal accounting officer concept to work in Canada there must be a minimal level of understanding among ministers, parliamentarians, public servants and indeed the media about what constitutes policy and what is administration. This is critical because the Westminster model of ministerial responsibility has retained a large scope of action that is politically- as opposed to administratively- initiated. In the Canadian federal system separating administration from policy is especially difficult and tricky in part because most ministers want to be, and many are, directly involved in the management and delivery of programs. Ministers and federal governments (whatever their political stripe) want to reach out and touch Canadians.⁵ In the UK, the extensive use of Executive Agencies within a unitary state has helped to more clearly define institutionally at least, the semblance of a dividing line between policy and administration. Even there, Lord Bridges, Secretary to the Cabinet (1938-45) likened policy to an elephant – “not easy to define, but you’ll recognize it when you see it” – albeit prior to the creation of Executive Agencies.

Michael Pitfield, former Clerk of the Privy Council wrote that he did not see the tendency to blend policy and administration as an insurmountable problem when it came to the question of establishing the principal accounting officer. He felt that boundaries could be drawn and ground rules established.⁶ The key question however is not whether boundaries can be drawn but can they be drawn in a manner in which they will be accepted and respected by all parties – ministers, senior public servants, parliamentarians (opposition and government), and the media. This acceptance should be a condition for instituting the accounting officer concept and it should be a part of any “new bargain”. It will not be good enough and it will likely be counterproductive if the accounting officer arrangement is largely struck between ministers and public servants, leaving parliamentarians to their own natural devices.

The other area, which is considerably more difficult, centres on the phrase “politically controversial issues”. As we know from first hand experience, some administrative issues can and do become politically controversial, and the trend is on the rise.⁷ The Auditor General in her November 2003 report observed that parliamentary culture may have to change if senior public servants are to be directly accountable to Parliamentary Committees for the exercise of their (administrative) duties. I agree. In the UK the Parliamentary Committee on Public Admin-

istration has a longstanding tradition of thoughtful deliberation, non-partisanship, and consensus reports as opposed to a raft of majority and minority reports. The establishment of a single non-partisan committee in Canada dealing with public administration may be one way to start, since changing culture is not like changing underwear. It will take time. This, of course, moves us into the area of Parliamentary reform, a subject which time does not permit me to deal with here, but parts of which, I think will be necessary for the successful implementation of the accounting officer concept.

In some sense the principal players (public servants, ministers, and parliamentarians) are all caught in the "prisoner's dilemma" in which the benefits to each player from mutual adjustment are not necessarily achieved. It is like "after you Alfonse". No one is prepared to adjust first because each fears that the others will be unprepared to adjust later. For things to improve, everyone has to adjust a bit if anyone is to adjust at all. Mutual adjustment is required. Each needs to be confident the others will make the promised adjustment and that they will all live up to their commitments.

One final question concerns the scope of the administrative space that the principal accounting officer is to occupy. I have no difficulty with something like the following: The officer would be given a specific space from which he or she could take action if the minister should propose a course of action counter to propriety and regularity of public finances. I would however be very careful in extending it to such matters as "economy, efficiency and effectiveness". That is the language of value for money audits (the 3-Es) and value for money puts everyone (ministers, public servants and parliamentarians) on an especially slippery slope when it comes to separating administration from policy (read politics). I know some may see this as overly cautious, but I worry about giving Deputy Ministers specific space in this area when matters, especially of effectiveness and efficiency must so often trade-off with other important values and political considerations. At a practical level when a minister and a government want to contract for ships, planes or trains in a way that is clearly less efficient and less effective because of important regional and industrial benefits, it is not clear that the Deputy Minister should insist on a written instruction from the Minister which if provided is made available to the Public Accounts Committee.

Experience indicates that the words, "economy, efficiency and effectiveness" are not the objective, clearly defined terms that some auditors and economists would like us to believe. Out of the mouths of politicians, ministers, public servants, and citizens they take on new meanings that rub up against many other political values and purposes. I vividly recall the rap against the HRDC Transitional Jobs Fund was that the program was ineffective because no one could say for sure that the jobs actually created in depressed areas of the county would be sustainable, yet it was also criticized for being unfair because it was targeted to regions of highest unemployment.

Conclusion

Minority government will test the mettle of politicians and public servants. Making it work will require skill, cooperation, good will, and solid thinking. There will be new and different pressures on public servants. It will require that they walk on the knife-edge of inherent contradictions in public administration, between prudence and flexibility, responsiveness and consistency, and innovation and certainty. It will present new and difficult challenges for the public service but it may also present unique opportunities to tackle some old and difficult problems.

Notes

1. For an elaboration see, Peter Dobell, "What Could Canadians Expect from a Minority Government?" *Policy Matters*, November 2000, vol.1, no. 6.
2. See Donald J. Savoie, *Breaking the Bargain: Public Servants, Ministers, and Parliament* (Toronto: University of Toronto Press, 2003).
3. Nicholas d'Ombrain, "Alternative Service Delivery: Governance, Management, and Practice", in *Change, Governance and Public Management* (Ottawa and Toronto: KPMG and Public Policy Forum, undated), 153.
4. United Kingdom, HM Treasury, *The Responsibilities of an Accounting Officer* (London: HMSO, 1991, Annex # 4.1. (s.5), 2.
5. See for example, David A. Good, *The Politics of Public Management: The HRDC Audit of Grants and Contributions* (Toronto: University of Toronto Press, 2003), 198.
6. Michael Pitfield, "Bureaucracy and Parliament" speech delivered to Ottawa Kiwanis Club (Ottawa: Ottawa Kiwanis Club, 1983).
7. See Good, *The Politics of Public Management*.