

Recent Publications and Documents

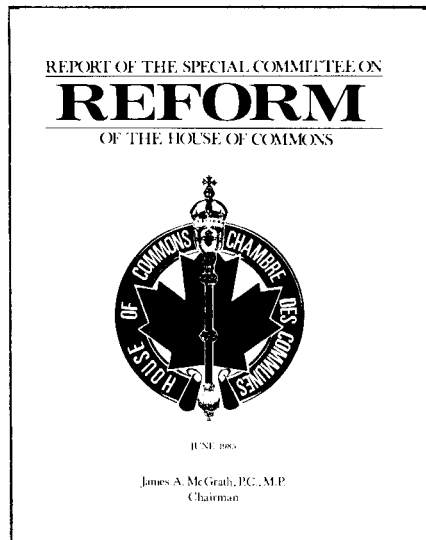
REPORT OF THE SPECIAL COMMITTEE ON REFORM OF THE HOUSE OF COMMONS, document tabled in the House of Commons, June 18, 1985, 124 p.

In his classic mid-nineteenth study *The English Constitution*, Walter Bagehot described the British Parliament as "nothing less than a big meeting of more or less idle people." If this description ever rang true for the Canadian House of Commons, it would not do so for very long after the adoption of the various changes recommended in the *Report of the Special Committee on Reform of the House of Commons*. The role of the individual legislator would be greatly magnified, as a result of variations in the nature of the confidence convention and party discipline. MPs would actively participate in the policy process, scrutinize order-in-council appointments, and review the details of delegated legislation. Such tasks would certainly counter the view of backbenchers once expressed by former Liberal MP Phil Givens who said: "The average Liberal MP is as useless as teats on a bull." The enhancement of MPs' roles and participation would have the ultimate result of returning Parliament itself to centre stage in the political process. Or so the *Report* would have us believe.

Crucial to an understanding and assessment of the *Report* is one's view of the nature of parliamentary sovereignty. While few would disagree that the Canadian Parliament has lost much of its reputed power in the modern era (at least since the development of a fairly rigid pattern of party discipline in the House of Commons), it is more open to challenge just how much Parliament ever really produced legislation on its own, that is, its centrality in policy making. This point is crucial, for the *Report* is predicated on the assumption that something that has been lost (possibly our political innocence?) can be regained through internal reforms of the House of Commons. The following passage is illustrative of this

outlook: "The purpose of reform of the House of Commons in 1985 is to *restore* to private members an effective legislative function, to give them a *meaningful role* in the formation of public policy and, in so doing, to *restore* the House of Commons to its *rightful place* in the Canadian political process" (p. 1 emphasis added).

I think it can easily be argued that Parliament is more significant in 1985 than ever before. In comparison to earlier times, Parliament now sits



longer and passes more legislation in more areas of social and economic policy than ever before. Moreover, the House of Commons played a particularly significant role in the constitutional reform battle of 1980-1982. Similarly, we should not forget the defeat of the minority Progressive Conservative government in December, 1979. While such actions are obviously not everyday occurrences, these examples should at least belie the apparent necessity for holding an immediate wake for parliamentary government in Canada. Do we really want to return to the halcyon days of Mackenzie King's vaunted consultations of Parliament?

What has happened and been forgotten in this *Report* is that power between institutions is relative. Parliament may have declined in relative, not practical terms, while other institutions, particularly the

political executive and bureaucracy, have gained. If this assertion is true, then internal reforms of the House of Commons will not likely reassert Parliament as a central actor in the policy process. For example, MPs assumed an ombudsman role in recent decades because public expectations of their tasks changed, not because they were out of something to do on Parliament Hill. The public's perception of Parliament will likely have more to do with institutional survival than procedural tinkering of parliamentarians.

As a result of its misconception about the reality of parliamentary sovereignty, the *Report* has a second weakness, namely, a rather idealized view of the potential role of the individual citizen in the political process. Parliament is seen as a conduit through which the mass public can participate in policy development. However, what evidence exists seems to suggest that the public neither cares what Parliament does nor pays much attention to it. Parliament's attentive public seems to be excruciatingly small. As a result, procedures designed to allow easier access of the public to Parliament, such as the proposed changes for the receipt of public petitions (pp. 44-45), will likely be used primarily by special interest groups and not the general public at all.

A supportable proposition about attitudes toward Parliament might be phrased as follows: oppositions adore it, governments seek to make it more efficient. As Wilfrid Laurier once put it: "Reforms are for Oppositions. It is the business of governments to stay in office."

As the usual party of opposition in federal politics since 1921, a pattern perhaps dramatically shifted by the September, 1984 election, the Progressive Conservative party has made a habit of proclaiming the need to strengthen Parliament. Finding itself in power has created a problem for the Tories: Is the political will really there to enhance the powers of the Commons? One suspects that the longer the Conservatives are in power, the less likely the chance for that political will to be in evidence. After

the success of the Liberal and NDP attacks on their first budget and the reversal of the Tories on their planned deindexing of old-age pensions, the Mulroney Government might come to the conclusion that Parliament is already strong enough. A government or opposition perception of the value of Parliament depends on which side of the green aisle they sit.

The real crux of parliamentary reform is how to convince the government of the day to give up some of its own powers. There are likely few examples in the history of government of a party in power voluntarily relinquishing its grasp on government. To increase the power of the average MP in policy-making and of Parliament in total is to adopt reforms which will likely reduce, in relative terms, the powers of the Prime Minister and cabinet. It seems unlikely

that the trends of recent decades toward "presidentializing" Canadian parliamentary practice can be reversed by good intentions and more active backbenchers.

The *Report* stresses attitudinal changes on the part of the government, opposition, and individual MPs in relation to two key areas: confidence motions and party discipline. Attitudinal change is necessary, but not likely sufficient, in this respect. The proposals do not explain, for example, how we are to get out of the practice of rigid party discipline in the first place. Which develops first: a relaxation of party discipline or attitudinal change? Good intentions do not necessarily make either good politics or adequate reforms.

As long as party discipline remains a government decision, effective

parliamentary reform will be illusory. For example, even under present practices, a free vote does not automatically mean that party discipline is not implicitly involved. Thus, the suggestion that the Speaker of the House of Commons should be chosen by a secret ballot (*Report*, p. 100) may not be effective in taking the real power of choice away from the Prime Minister and returning it to the House. After reading the report one is left in agreement with a current assessment of parliamentary reform in Britain. "The history of parliamentary reform is littered with good intentions left unfulfilled...".

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James Jerome was Speaker of the House of Commons from 1974 to 1980. The following excerpt is from his forthcoming book, *Mr. Speaker* to be published by McClelland and Stewart in October 1985.

"TAKING THE PLUNGE"

Election day was July 8, 1974, and Prime Minister Trudeau was returned to a majority position of 141 seats. During the August 1 civic holiday, I came home on Saturday afternoon to learn of an urgent call from The Hon. Mitchell Sharp in Ottawa. When the Secretary of State for External Affairs is contacting Members of Parliament in August, one thinks in terms of an invitation to dinner in honour of a visiting Head of State. But when I returned the call, his opening words were: "Make sure you're sitting down, because I have to first tell you what the Prime Minister has asked me to take on before you will understand this call." We shared some banter about his choice as Government House Leader, a responsibility for which he felt entirely unprepared, emotionally or technically — but which he discharged with his customary excellence through 1974 and 1975. In that capacity, of course, the purpose of his call was less of a surprise: it was a preliminary exploration of my reaction to a possible nomination as Speaker.

We gathered everyone immediately

— family, friends, key members of our election team — and we talked it over well into the night. Finally, my wife Barry, as she had done so many times before, injected some common sense into the frenetic political merry-go-round: "This is not a decision that can be made in comparison with something else. It is an absolutely singular responsibility, not something anyone outside the House of Commons fully understands. Jim, you have to decide in a positive way if it's something you want to do." Indeed, our focus had been completely on the negative side. We were worried that our voters would see it as a muzzle, tying my hands behind my back — and maybe it would be so. Personally, it would mean abandonment forever of ambition for upward mobility in politics, which went directly against every instinct that got me into politics in the first place. At the same time, however, I had been greatly impressed with the way The Hon. Lucien Lamoureux had discharged his responsibilities as Speaker, and with the respect all Members had for him and for the

Chair. I was always more at ease when partisan hostility gave way to intelligent compromise, and I felt sure I would be comfortable protecting and balancing the rights of all Members in that kind of process. . . . More and more, I became fascinated with the idea, excited by the challenge. When the last guest left, I think we knew that if the Prime Minister could ease our concerns, I would do it!

The next day, I called Mitchell, and later the call came through from the Prime Minister: When he made the offer, I had the impression he expected me to accept over the phone. Once assured that I was not asking for a meeting just to say no, he quickly agreed to meet for lunch at 24 Sussex after a Cabinet meeting arranged for Tuesday morning. If you have never been in Ottawa in August, you don't know what heat and humidity really mean. Of course, I was in shirt, tie, and suit and, of course, the Prime Minister emerged from Cabinet in T-shirt and sandals. As he jumped behind the wheel of his treasured convertible Mercedes, my jacket and