

There will be no backbench: The democratizing impact of backbench participation in cabinet policy committees

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Abstract

When Premier McGuinty was elected in 2003, he reformed his cabinet committee structure to increase caucus participation. The reform saw backbench MPPs chair all three policy committees of cabinet. In addition, each member of caucus was assigned to a cabinet committee. To determine the extent to which committee work truly engaged caucus, the cabinet structure was examined and committee chairs and members were interviewed.

Participation in cabinet decision making *has* empowered the backbench, giving it real but modest policy influence; it has had a minor decentralizing impact on the executive-legislative balance of power in Ontario. Engaging caucus in executive decision making has also yielded political benefits—increased cohesiveness within the government caucus. The reform was criticized on exactly this point; that it would restrain the backbench from holding the government to account, because the backbench would be co-opted by cabinet. This critique fails to account for the extent of party discipline in Ontario; backbench dissent is largely absent in its politics. Rather than insist on an anachronistic role for the backbench. Further reform encouraging backbench policy influence should be pursued.

Introduction

Centralization of power is a persistent theme in contemporary analysis of Canadian political institutions. One important dimension of this theme is the balance of power between executive and legislature. It is a dimension that generates sustained debate because it speaks to a trade-off inherent in representative democratic institutions. An empowered legislature suggests a more democratic political institution, while a stronger executive may indicate more decisive, effective and efficient governance. Though this picture is simplistic, initiatives to empower members of the legislature are very much *democratic* reforms.¹ This paper analyzes the effectiveness of one such reform.

In 2003, upon being sworn in, Premier Dalton McGuinty announced that backbench MPPs would chair his cabinet policy committees and that every MPP would serve on one. He explained this decision in terms that directly relate to the issue of centralization of power in the executive:

Because we believe in public service and we believe in government, we will strive to make government more relevant to the people that we serve. With that goal in mind, we're moving to make the people's representatives -- our MPPs -- even more relevant to government. For the first time in Ontario history, every MPP in the government caucus will sit on Cabinet Committees. And those committees will be chaired by non-ministers. In keeping with our parliamentary traditions, decisions will remain with Cabinet. But with this innovation, MPPs will have real, meaningful input into those decisions. When it comes to policy making in our government, *there will be no backbench.*²

The Premier states that he will empower backbench MPPs in order to make government more relevant to the people. By engaging these MPPs in cabinet committee deliberations, they will have “real, meaningful input into [Cabinet] decisions.” This implies that backbenchers previously lacked input into Cabinet decisions. Remedying this deficit will make government more relevant; what is a more relevant government if not a more democratic one? While it does not address the empowerment of opposition MPPs, this reform is clearly relevant to the issue of executive-legislative centralization of power.

As soon as the announcement was made, criticism emerged. Peter Kormos, an opposition New Democrat MPP, argued that drawing the backbench into the executive would have a chilling effect on backbench scrutiny. Government members taking the oath of cabinet secrecy would be less able and less willing to scrutinize the government.³ Was the reform a Machiavellian attempt to neuter the backbench by bringing it into cabinet, further eroding the relevance of the legislature?

This paper addresses two issues. First, *do* backbench MPPs have meaningful input into cabinet decisions; does committee chairmanship or membership give them real

¹ Graham White, *Cabinets and First Ministers*, (Vancouver: UBC Press, 2005), 6.

² Government of Ontario, “Remarks by Dalton McGuinty, Premier of Ontario on the Occasion of the Swearing-in of the Premier and Cabinet,” 2003, <http://news.ontario.ca/opo/en/2003/10/remarks-by-dalton-mcguinty-premier-of-ontario-on-the-occasion-of-the-swearing-in-of-the-premier-and.html>.

³ Ian Urquhart, “McGuinty shores up his bench – maybe,” *Toronto Star*, October 27, 2003.

policy influence? Second, does smudging the line between cabinet and backbench actually centralize power in the executive by limiting backbench dissent? In order to determine whether caucus is indeed empowered through cabinet committee participation, I examine the role of policy committees in the cabinet decision making process and the influence of backbench MPPs on those committees. Evidence gathered from interviews with backbenchers suggests that MPPs are able to influence public policy as a result of membership on, or especially, chairmanship of, policy committees. Legislators are empowered and cabinet is made more democratic.

The second issue, caucus' ability to hold the government to account, is a separate issue. The Premier's reform was not politically naïve; it was introduced to promote caucus cohesion and mitigate the risk of backbench disaffection, as well as empower caucus. Interviews indicate that the decision *has* strengthened party discipline. However, this criticism makes the normative assumption that the role of the backbench is government scrutiny. This assumption is at odds with the reality of ironclad party discipline in Ontario and across Canada.⁴ The normative view is anachronistic, and if it is unrealistic to expect scrutiny, there is unequivocal value in having backbenchers play a greater role in cabinet decision making. In short, the 2003 reform does decentralize and democratize, although the scope of the reform is modest and government should further engage backbench MPPs.

Cabinet

Gauging the empowering effect of caucus participation in cabinet committees requires clarifying the function of cabinet, which is contested. The textbook understanding of Westminster-style government equates cabinet with executive. Cabinet is where the proverbial buck stops, where decisions are taken. Recently this picture has been challenged, most prominently by Donald Savoie.⁵ Savoie suggests that first ministers, with their powerful political-bureaucratic apparatus, have largely supplanted the traditional role of cabinet. For Savoie, the question of centralization is *not* primarily one of the balance of power between cabinet and legislature – it is between first minister and cabinet. His argument suggests that cabinet participation is unlikely to give backbench MPPs sufficient policy influence to significantly draw the executive-legislative pendulum towards the centre. Yet even in accepting that the first minister is no long *primus inter pares*, cabinet remains “the principal executive body in Canadian government”⁶ and “the core of the core executive”⁷.

At first blush, cabinet seems like a strange choice of institution for enhancing democracy. Cabinets are bound by conventions of secrecy and solidarity, hardly the stuff of democratic reform. Yet the institution of cabinet is dynamic and heterogeneous; cabinets are “complex, internally differentiated institution[s] in [their] own right.”⁸

⁴ White, *Cabinets*, 15 and 77; David Docherty, *Legislatures*, (Vancouver: UBC Press, 2005), 6.

⁵ Donald Savoie, *Governing From the Centre*, (Toronto: University of Toronto Press, 2004).

⁶ White, *Cabinets*, 5.

⁷ *Ibid.*, 18.

⁸ *Ibid.*, 19.

Further, cabinets are flexible and open to reform because they are creatures of convention, not law.⁹

The “Canadian Democratic Audit” series, led by the Centre for Canadian Studies at Mount Allison University, suggests three criteria for gauging democracy in political institutions. One of those criteria is public participation. Although the public is rarely if ever invited to the cabinet table or allowed to see its proceedings, White argues that as representatives of the public, the participation in cabinet of backbench MPPs is relevant to this criteria:

Given the concentration of power in cabinet and its exclusionary nature, any indication that backbenchers, with their direct links to the public, are included in cabinet deliberations is worth pursuing.¹⁰

This paper argues that backbenchers are indeed included in cabinet deliberations through their committee participation. The role of policy committees offers the possibility of effective participation, and interviews with MPPs demonstrate that it is being realized.

Cabinet Committees

As the role of government expanded in the postwar era, the time and resources of cabinets were stretched thin.¹¹ In response, federal cabinets introduced secretariats and committees to help inform, support and communicate their decisions. Provincial cabinets were professionalized later. Ontario’s cabinet committee structure emerged in recognizable form only in the early 70s.¹² Committees support the work of cabinet in a variety of ways, and vary in their influence on cabinet decisions. This section evaluates each committee’s potential realm of influence on public policy, and states the extent of backbench participation. While some of this information is publicly available and appropriately cited, much of the detail comes from interviews with Cabinet Office officials and senior political staff familiar with the committee system. They were interviewed on a not-for-attribution basis.

The primary role of Treasury Board¹³, one of the two most influential cabinet committees, is to authorize annual Ministry spending plans.¹⁴ Treasury Board also considers policy proposals with spending or resource implications that were not included in those annual plans. Treasury Board is unique; it is the only committee that can actually approve (rather than just recommend) proposals submitted by line ministries.¹⁵ As guardian of the province’s finances, Treasury Board wields considerable policy influence.

⁹ Ibid., 32-3.

¹⁰ Ibid., 117.

¹¹ Savoie, *Governing from the Centre*.

¹² White, *Cabinets*, 35.

¹³ Treasury Board and Management Board of Cabinet are separate committees with identical membership; they also meet simultaneously. I have chosen to refer to them as Treasury Board.

¹⁴ Office of the Premier, Dalton McGuinty – Committees, 2011, <http://www.premier.gov.on.ca/team/committees.asp?Lang=EN>.

¹⁵ Consultation with Cabinet Office official, April 2010.

It is chaired by the Minister of Finance and has nine members, all of whom are cabinet ministers. However, two backbench MPPs sit as “advisors.”¹⁶

Along with Treasury Board, the Priorities and Planning Committee has the greatest influence. It has been colloquially termed “inner Cabinet.” The mandate of the Priorities and Planning committee is broad, and there is a particular focus on monitoring policy implementation and ensuring interdepartmental coordination. Little information is available on this committee, but it certainly has significant policy influence. It is chaired by the Premier himself and has eight members, all of whom are cabinet ministers.

The Legislation and Regulations Committee is a “machinery of government” committee that monitors and manages legislation, regulations and orders-in-council. This committee is chaired by a backbencher and only 7 of its 17 members are cabinet ministers.¹⁷ While it is an important committee in realizing of the government’s agenda, it has limited policy influence and is not the subject of this paper.

Ontario’s current cabinet system includes three policy committees: Economic, Environmental and Resource Policy (EERP), Health, Social and Education Policy (HESP) and Justice, Intergovernmental and Aboriginal Affairs Policy (JIAAP). These committees examine ministry policy submissions in detail. They were designed as pre-screening mechanisms, catching and resolving potential policy—as opposed to fiscal—issues before they reach cabinet.

These three committees represent the chief forum for backbench participation in Premier McGuinty’s cabinet committee system. Each is chaired by a non-minister. Further, 12 of the 18 members of HESP are backbenchers, as are 7 of the 19 members of EERP and 8 of the 14 on JIAAP.¹⁸ The following detailed description of how the committees work was furnished by a senior official at Cabinet Office and confirmed through interviews with MPPs and other public servants and political staff.

Taking a fictitious example, imagine that a new regulatory policy is being developed for the securities industry. The policy will be developed in a line ministry—the Ministry of Finance in this case. When Finance has developed the policy, it will send a “cabinet submission,” signed by both the Minister of Finance and Deputy Minister of Finance, to Cabinet Office. It should be submitted around a week before EERP meets. Briefing materials on the item, and any other being discussed that week, will be distributed to committee members a few days prior to the meeting. The committee Chair will get a more in-depth briefing from a Cabinet Office advisor.

At EERP, the Minister of Finance (who is on the committee) will present the policy to his colleagues with the aid of a PowerPoint presentation. A key element of the submissions and the presentation is the “cabinet minute.” This is the formal policy decision being recommended to cabinet. After the Minister presents the policy, committee members will ask questions and state concerns. The Deputy Minister of Finance and other senior staff from the Ministry, the Minister’s Office and Cabinet Office are there to answer questions and offer clarification and detail. The discussion will

¹⁶ Office of the Premier, Dalton McGuinty – Committees, “Treasury Board / Management Board of Cabinet, 2011, <http://www.premier.gov.on.ca/team/committee.asp?Team=2&Lang=EN>.

¹⁷ Office of the Premier, Dalton McGuinty – Committees, “Legislation and Regulations,” 2011, <http://www.premier.gov.on.ca/team/committee.asp?Team=3&Lang=EN>.

¹⁸ Office of the Premier, Dalton McGuinty – Committees, 2011, <http://www.premier.gov.on.ca/team/committees.asp?Lang=EN>.

probably last between half an hour and an hour. There are usually one to four items on the agenda at each meeting.

At the close of the discussion, the Chair will “call the consensus” reflecting the position of the committee on the item being discussed. After the meeting, Cabinet Office officials will write up a report outlining the consensus and other pertinent details brought up during the committee proceedings. The report will also include the cabinet minute, which may or may not have been revised by the committee. Despite their ability to amend a proposed cabinet minute, policy committees do not approve policies, they only review and recommend them to cabinet.

An item will usually be taken up at cabinet within two weeks of being discussed at committee. The chair will present the report drafted by Cabinet Office to full cabinet. There is certainly room for substantive policy debate at cabinet, but an item will rarely be taken up for anywhere near the length of time it was discussed at committee. The system is designed so that “meaty” policy discussion happens in committee, while cabinet’s deliberations are “high-level.” Committee members interviewed echoed this understanding. One committee chair aptly described the committee as a “pre-Senate of sober second thought.”

To determine whether these policy committees offer a real opportunity for backbench participation, I have (loosely) interpreted and deployed criteria developed by Graham White¹⁹:

1) *The committee must have an important role in the cabinet process.* In the current Ontario cabinet system, all initiatives that go before cabinet are first discussed at policy committee, and these committees are tasked with in-depth policy scrutiny. That the committee may amend the proposed cabinet minute, and that its deliberations are reported to cabinet, indicates that committees can play an influential role.

2) *The size and makeup of cabinet committees must give backbenchers a strong voice.* Backbench participation on committees is strong, as ministers serve only on the committee relevant to their portfolio. Other positions, including all chairs and vice-chairs, are filled by backbenchers, virtually all of whom serve on a committee (for individual reasons, one or two often do not). On two of the three committees, backbenchers predominate. This suggests that they are not marginalized in committee deliberations.

3) *Backbenchers should have the opportunity to attend full cabinet.* In general, attendance at cabinet is highly restricted. Few bureaucrats or political staffers are ever privy to its deliberations. It is significant that committee chairs report directly to cabinet. However, committee chairs only remain at the cabinet table for their own reports. Having chairs stay for the entire committee reports section of the cabinet agenda (so they would hear other cabinet committee reports) was mooted but not adopted.²⁰

4) *Committee members must have access to cabinet confidential documents and central agency briefings.* In White’s estimation, this is the most important criteria.²¹ Indeed, information is the reserve currency of politics. MPPs will not be able to give meaningful input if they are information poor. Ontario’s reformed committee structure scores well on this point. Full cabinet submissions are given to committee members prior to committee meetings, so the onus is on the members to study up. Committee

¹⁹ Criteria loosely adapted from White, *Cabinets*, 117-121.

²⁰ Consultation with public servant who served as advisor to cabinet structure deliberations, March 2011.

²¹ Graham White, telephone conversation, April 2011.

members benefit from the presence of line ministry and central agency staff at meetings. Chairs are further supported by Cabinet Office officials both before and after meetings through their briefings and the report drafting exercise.

The institutional design of Premier McGuinty's cabinet committee system opens an avenue for backbench participation through policy committee membership. Chairs have a greater opportunity for input. But is this opportunity being realized or stymied?

What the MPPs say

I interviewed all three committee chairs and a backbench MPP serving on each committee to better determine the extent and nature of backbench participation. Using a semi-structured interview methodology, I asked broad questions about how the committee works (to confirm details of process), the subject's role on the committee and their evaluation the scope and nature of its policy influence. I also stated the concerns that had been raised by MPP Kormos regarding accountability and asked the interviewees to respond. The interviews were conducted on a strictly not-for-attribution basis to encourage open, critical dialogue.

Five of six interview subjects, including all three committee chairs (who were the most positive) argued that policy committees play an important role in the cabinet process and that backbenchers make significant contributions to committee work. One chair summed up the consensus: "the purpose of the committee is not to rubber stamp." The dissenting voice thought that committees have minimal policy impact and that while the initiative attempted to engage caucus, it was inadequate. The central issue for this respondent was information asymmetry: ministers come to the table better informed due to their ongoing access to ministry resources. Another respondent, while generally positive, agreed that backbenchers are less influential at committee than ministers.

Perhaps the best measure of the overall influence of a given policy committee is how often and to what extent it amends the proposed cabinet minute. Unfortunately, due to the convention of cabinet secrecy, which applies to the work of cabinet committees, it is difficult to gather evidence on this point. A few respondents made general observations. One chair estimated that the minute is altered approximately half the time, although the significance of the amendment varies from simply stating that another ministry must be consulted, to changing timelines, to more substantive amendments. Another committee chair said that the minute "doesn't change too often," while a member of the third committee said the minute was changed "often," although usually at the direction of a minister. Such mixed evidence makes it hard to draw any conclusion, but it seems safe to say that committees do more than rubber stamp. There is obviously variation from committee to committee, which is probably the by-product of factors including policy area, personalities and the approach of the committee chair. We will take up the last factor later on in this section.

What kind of input do backbenchers tend to give in committee? The Premier's remarks at his swearing-in ceremony, which focused on MPPs as the people's representatives, suggests a focus on riding-level policy implications. This would be the clearest indication that cabinet decisions are being made more "relevant" to electors.

All interview subjects agreed that the nature of policy input depends on the individual committee member. Where an MPP has either professional or ministerial

experience in a policy area, they are likely to contribute province-wide and policy-focused considerations. Other members do focus on how the issue will play in their constituency. Backbench participation often centres on the political implications of policy decisions and how those decisions ought to be communicated. One interviewee argued that the main reason the reform was introduced was to bring the “political instincts” of backbench members into the discussion.

If backbench input is focused on political considerations rather than technocratic policy implications, is the reform less democratizing? Voters are not generally thought to elect representatives for their deftness in policy analysis. Making government more relevant to people can be achieved by taking their views into account in executive decision making. In fact, the more local and politics-focused the backbench input, the more it reflects the democratizing goals of the initiative. Two interviewees stated that the type of input backbench members give (less technocratic, more politically sensitive) is particularly valuable because it is so different than the advice of bureaucrats, who can dominate the context in which cabinet approaches policy problems. Backbench participation really does broaden the range of perspectives in cabinet decisions.

Chairs have influence far beyond that of regular committee members. Having backbenchers chair cabinet committees is the real innovation in Premier McGuinty’s reform. Chairing a meeting always allows one a certain measure of control, but there are aspects unique to cabinet committees that greatly enhance the influence of the chair. First, they must gauge the perspective of each committee member in calling the consensus, a difficult and important task that gives chairs a wide degree of latitude. Second, they must instruct Cabinet Office staff on what aspects of the committee deliberations will be included in the report to cabinet. Third, they present the report to Cabinet, and can pick and choose what is highlighted.

One interesting theme that emerged in the interviews was the importance of the chair in soliciting backbench participation. One chair perceived their primary role as actively soliciting the position of each committee member. This MPP argued that chairs must explicitly acknowledge this obligation in order to ensure backbench engagement and high-quality deliberation. Another chair saw their role quite differently; their primary motivation is to “move forward government priorities by finding consensus.” It’s likely that the approach of the chair is a major factor in the extent of backbench participation.

Backbench participation in cabinet committees provides an opportunity for backbenchers to learn about and influence public policy. Committee chairs in particular can have significant influence. Ministerial voices do carry more weight in committee deliberations, but it is hard to see how it could be otherwise. In sum, the reform empowers the backbench. However, to prove that the reform has had a decentralizing impact overall, one must answer the charge that it engenders a reduced capacity for scrutiny and accountability. Understanding the context in which the reform was adopted is useful in addressing that charge.

Designing the cabinet committee structure: looking to Alberta

Until 2003, Ontario cabinets remained the near-exclusive purview of cabinet ministers. While both the Rae and Harris/Eves governments had a few parliamentary assistants

serving on cabinet committees, backbench participation in cabinet was anomalous.^{22,23} Ontario was akin to other Canadian jurisdictions, where “even government members have no better access to the cabinet room than those in opposition.”²⁴ In Nova Scotia, Quebec, New Brunswick and at the federal parliament, backbenchers have no participation whatsoever in cabinet committees. In most provinces, like in Ontario pre-2003, there is a very limited role for parliamentary assistants.²⁵

When the Liberals won a majority in 2003, their transition team met with high-ranking bureaucrats in the Ontario Public Service to conduct the transition planning exercise. Transition planning always includes a discussion of the cabinet decision-making structure.

Early on in this process, the Premier and his transition team advised the public service that they wanted to pursue avenues for significantly enhanced backbench participation.²⁶ The bureaucracy brought to the government’s attention a decision-making structure developed in Alberta.

Alberta’s system is similar to, but somewhat more robust than, Ontario’s. It has evolved since the early 70s, when landslide majorities raised the spectre of backbench trouble. Like Ontario, backbench participation is limited to the policy committees, and these committees are chaired by and largely consist of backbenchers. However, reflecting a political culture more interested in direct democracy, committee decisions are effected through a vote, not a call of consensus.²⁷ In 2001 in British Columbia, the BC Liberals won 77 of 79 seats, and adopted a model based on Alberta’s, but, like Ontario, without a formal voting process to reach decisions.²⁸

Both the precedents for Ontario arose in massive majority situations, where the backbench was as close to an opposition as the government was likely to find. Yet in Ontario, the McGuinty Liberals won only 72 of 107 seats. A substantial majority, but not on the same order of magnitude of those in BC and Alberta. This would suggest that fears about caucus revolt were not as central in Ontario as they were in BC and Alberta.

I interviewed a couple figures involved in the discussions that led to the Premier’s decision, and the rationales they present for it are instructive. One of the two interviewees was a senior party official, and—perhaps unsurprisingly—he emphasized the desire to include more perspectives in executive deliberations and guard against “group think.” While it would be easy to dismiss this as spin, the fact that the Liberals did not have an overwhelming majority, and that they were new to power and unlikely to face any backbench disaffection in the near-term, suggests that there was more at play than a political calculus. The evidence supports this putative rationale: backbench participation in cabinet committees has indeed broadened the perspectives at play in cabinet deliberations.

The other interviewee, a senior public servant, presented a more complex picture of the reason for introducing the reform. He recognized the desire to democratize cabinet by

²² This paper does not differentiate between backbenchers and parliamentary assistants. In previous governments, being a parliamentary assistant was closer to being a junior minister.

²³ Consultation with Cabinet Office official, April 2011.

²⁴ White, *Cabinets and First Ministers*, 118.

²⁵ *Ibid.*, 118-19.

²⁶ Consultations with senior member of transition planning team, March 2011.

²⁷ White, *Cabinets*, 120-1.

²⁸ *Ibid.*

including more MPPs in its deliberations, but he noted two other factors as being more important at the time. First, there was a real push to reduce the burden on cabinet ministers by having non-ministers chair the committees. Second, there was a recognition that this would mitigate the risk of backbench dissent. Specifically, the interviewee noted that MPPs are often forced to defend unpopular decisions in their ridings without any prior involvement in, or understanding of, that decision. This is perhaps a root cause of dissent. Involvement in policy committees made it more likely that MPPs would understand and feel comfortable communicating these decisions. Somewhat out of the blue, a number of MPPs brought up and confirmed exactly this point as a key factor in their enthusiasm for the reform. More generally, the majority of MPPs interviewed hypothesized that the reform was partly introduced to reduce the risk of any public backbench dissent.

Examining how MPPs are assigned to committees would shed light on why the reform was introduced. This question arose in a few interviewees (with party officials and MPPs), but the responses were somewhat all over the map. One MPP said that committee members and chairs are chosen based on policy experience. This would suggest that the committees really were designed to give backbenchers a role in policy formation. However, another MPP speculated that committee membership was assigned at random. Perhaps the most authoritative voice, a party official who was involved in determining committee membership in 2003, said a number of factors were considered in assigning MPPs, and that they were akin to the factors considered in forming a cabinet. Unfortunately, this evidence is too mixed to be able to draw strong conclusions.

It would be naïve to suggest that the decision was taken without political considerations—it was. Further, the political calculation has paid off; both interviewees said they felt that the cohesion of the Liberal party had been positively impacted by the reform. Indeed, despite politically unpopular decisions since 2003 (for example, the health premium and the HST), there has been hardly a whisper of backbench dissent.

Party cohesion is simply a euphemism for party discipline, and party discipline is perceived as an obstacle to more democratic governance. In order to address this criticism, we need to theorize the role of the government backbench, which the next section attempts to do.

The role of the backbench: the anachronism of backbench scrutiny

Backbench participation in cabinet solidifies party discipline. It likely reduces the propensity of backbench publicly scrutinizing the government to account. If this is the primary function of the backbench, we have a serious problem. However, while the literature continues to highlight the scrutiny function, the reality of contemporary Ontario politics suggests that the backbenchers-as-scrutinizers model is anachronistic. Ironclad party discipline is already overwhelming, regardless of cabinet committee participation, so if we want to empower the legislature and enhance democracy we should bring backbenchers closer to cabinet, not set them up against it.

For Docherty, all non-cabinet MPPs, opposition and government, are there to scrutinize government and keep it honest; he writes of “the daunting task of government scrutiny and accountability.”²⁹ Schindeler too argued that government backbenchers

²⁹ Docherty, *Legislatures*, 131 and 16.

should be “considered [...] an instrument for controlling the executive.”³⁰ Yet one can tell by the use of the word “should,” that even in the 1960s, backbenchers were hardly able to fulfill this function.

Theoretically, caucus has three tools for exercising its accountability function: legislative voting, public criticism and private criticism. However, only the latter, the most mild form of dissent, has ever been common. Docherty writes that unlike opposition members, “backbenchers traditionally use the quieter, more secretive vehicle of caucus” to hold government accountable.³¹ Schindeler, writing forty years earlier, paints a similar picture, stating that backbench “influence is more behind the scenes than in the formal institutions of government.”³² Swearing the oath of cabinet secrecy will *not* limit the ability of the backbench to privately hold government accountable. It accomplishes the exact opposite, formalizing the scrutiny function by bringing the backbench directly into the decision-making process. One committee member raised this point in addressing the criticism the initiative had received. The MPP said that committee involvement had no impact on willingness to disagree with cabinet decisions because backbenchers do not “own the issue”; in fact, backbenchers play an inherently critical function on committee. No accountability is lost in moving private disagreement from caucus to a cabinet committee.

The overwhelming impediment to *public* backbench dissent, either through the media or by voting against the party line, is party discipline. For a variety of reasons including cabinet ambitions, job security, the debt MPPs owe their leader, interpersonal dynamics within caucus, pressure from the whip and ideological closeness, parliamentarians rarely criticize and even more rarely vote against their own party.³³ Analyzing the factors that have contributed to party discipline leads us to the conclusion that it is “in large part, *a self-imposed discipline*.”³⁴ Therefore, the opportunity for institutional reform to limit party discipline is severely limited. Reformers should concentrate their energy on working within the confines of party discipline, which is exactly what this reform does.

While there have been periods of marked backbench independence in the British parliament,³⁵ this is not the case in Canada generally or Ontario specifically³⁶. One reason for this is that the leaders of Canadian parties are elected by grassroots party members, not caucus.³⁷ This means that leaders are less accountable to their caucus, further centralizing power in the executive.

These observations regarding party discipline were confirmed in an analysis of the 32nd Parliament of Ontario. A comprehensive study of recorded votes demonstrated the extent of party discipline. In 94 per cent of votes, at least 90 per cent of the members of each party voted together. Most instances of dissent were votes on private members bills,

³⁰ F.F. Schindeler, *Responsible Government in Ontario*, (Toronto: University of Toronto Press, 1969), 32.

³¹ Docherty, *Legislatures*, 16.

³² Schindeler, *Responsible Government*, 32.

³³ Mark McGuigan, “Parliamentary Reform: Impediments to an Enlarged Role for the Backbencher,” *Legislative Studies Quarterly*, vol. 3, no. 4 (1978): 679-80; Lucinda Flavelle and Philip Kaye, “Party Discipline and Legislative Voting,” *Canadian Parliamentary Review*, Summer 1986, 7.

³⁴ Flavelle and Kaye, “Party Discipline,” 7.

³⁵ Philip Norton, “The Pattern of Backbench Dissent,” in *British Politics: A Reader*, ed. Burch and Moran, (Manchester: Manchester University Press, 1987).

³⁶ Docherty, *Legislatures*, 6.

³⁷ White, *Cabinets*, 77.

which are hardly ever passed and cannot involve spending or taxation measures.³⁸ As White argues, “the unusually strong party discipline evident in Canada’s Parliaments and legislatures [...] effectively gives Canadian cabinets all but unshakeable control over the House of Commons and its provincial counterparts.”³⁹ If this is the case, the battle for backbench scrutiny is already lost, and the accountability argument is largely moot. If cabinet has unshakeable control, we need to get more voices into the cabinet process, not pretend that those voices are an important counterbalance to cabinet power. In the context of rigid party discipline, decentralization requires smudging the line between executive and legislature, not delineating it more clearly.

Limitations of the reform and recommendations for further caucus empowerment

It is important to recognize the significant limitations of this reform. The government backbench in Ontario still has a limited role in cabinet decision-making. While Ontario backbenchers may feel less like “trained seals” than their Ottawa counterparts⁴⁰, they hardly have their hands on the levers of power. Also, the impact of backbench participation on cabinet committees may depend on the approach of the committee chair. If the chair does not actively solicit their opinions, backbenchers may take a back seat to ministers on the committee. Of course the largest limitation of the reform is that the issue of legislative-executive centralization is only partially addressed. Nothing in this reform will empower opposition MPPs.

Despite these limitations, it is remarkable that a fairly minor, easy to implement and (mostly) non-controversial institutional innovation has resulted in meaningful backbench empowerment. Even more promising is that the democratic benefits are matched by political gains, which make the reform more likely to survive. Because empowering the backbench can pay off politically, there is a good chance of further reform.

I concluded my interviews by asking the subjects to suggest further reforms for caucus empowerment. One caucus chair suggested that the committee system be expanded to the ministry level. Parliamentary assistants, who are generally seen as underutilized in the current administration, would chair small (perhaps five person) committees that would monitor significant policy initiatives before the cabinet committee stage. The MPP described it as a “pre-pre-screen.”

A few other changes would further decentralize power in the executive by empowering the backbench. First, because the role of chair is so important, more caucus members should have the opportunity. Perhaps a system where the chair rotated among committee members would be workable. Further, the Premier should formally instruct all policy committee chairs to draw out the position of backbench members on each item. Members should be assigned to committees where they have relevant policy experience. This should be the primary consideration, although regional representation is also important. Finally, backbenchers should be included in *all* cabinet committees, even Treasury Board and Priorities and Planning. While this might seem a step too far for the

³⁸ Flavelle and Kaye, “Party Discipline,” 9.

³⁹ White, *Cabinets*, 15.

⁴⁰ Samara, *‘It’s My Party’: Parliamentary Dysfunction Reconsidered*, 2011, <http://www.samaracanada.com/downloads/ItsMyParty.pdf>, 8.

core executive, it would clearly signal that within the McGuinty government, there will be no backbench.

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