

Tories, By-Elections & the Reform Act

On Apr. 28 we returned our third consecutive minority parliament and the sixth overall of the 21st century. While the Conservatives increased their share of the popular vote from 33.74% in 2021 to 41.3% in 2025, the Liberals increased theirs from 33.62% to 43.7% and came within only a few seats of crossing the threshold of a majority, returning 169 MPs opposite 144 Conservatives, 22 Blocists, 7 New Democrats, and 1 Green. Both Jagmeet Singh, the departing leader of the New Democratic Party, and Pierre Poilievre, leader of the Conservative Party, lost their own seats. Mark Carney's Liberals will soon face an official opposition without its leader, a demoralised rump of seven New Democrats who have lost their status as an official party in the House of Commons (which, incidentally, means that they need not hold any votes on whether to apply the *Reform Act* to themselves), a diminished but still vociferous Bloc Quebecois, and the perennial Elizabeth May withering on the Green Party vine. Had Poilievre retained his own seat in Carleton, the Conservatives would almost certainly keep him as leader. But his humiliating defeat and pending absence from the new House of Commons might make some Conservative MPs look elsewhere. And the *Reform Act* would give them the instrument to oust yet another leader.

In April 2014, Conservative MP Michael Chong first tabled the legislation which eventually became the *Reform Act* in June 2015. The bill at First Reading would have added five procedures to the *Parliament of Canada Act* which outlined how recognised parties in the House of Commons could conduct leadership reviews, oust their leaders and appoint an interim leader, remove members from the parliamentary party, and re-admit said members under some conditions. These provisions would have applied automatically to all parliamentary parties as a matter of course, like any normal statutory provision. But Chong had to accept significant amendments to his bill, which nearly gutted it, in order to secure

its passage. The *Reform Act* as enacted in 2015 made all these automatic procedures contingent instead: every parliamentary party has to decide when it first meets after each general election whether to subject itself to each of the procedures, separately, and the decision applies only for the life of that particular parliament.

In its first meeting after each general election, each parliamentary party must (but under no pain of true enforcement) vote on whether to apply each of five procedures to itself for the duration of each parliament. Basically, each parliamentary party elects a caucus chair who then presides over key votes. The party leader can no longer expel MPs from caucus unilaterally; instead, an MP can only be expelled by a majority of caucus votes to do so by secret ballot. Similarly, a simple majority of caucus can vote by secret ballot to oust their leader and elect an interim leader. But the caucus can only hold such votes by secret ballot if at least one-fifth of MPs give the caucus chair written (and therefore open) notice.

SO FAR, ONLY THE Conservative parliamentary party has ever voted to apply any of the procedures to itself, perhaps because the other political parties seem to regard this legislation as an attempt to change the Conservative Party's procedures through Parliament — perhaps not an entirely unfair criticism given that Mr. Chong's legislation did ultimately flow from the internecine warfare within the Canadian Alliance and the Democratic Reform Caucus of the early 2000s. During the 43rd Parliament, Conservative MPs kicked Derek Sloan out of caucus on Jan. 20, 2021. During the 44th Parliament, the Conservative caucus voted on Feb. 2, 2022 to oust Erin O'Toole as party leader by a margin 73 to 45; they named Candice Bergen as interim leader until the Sep. 9, 2022 when 68.15% of party members elected Pierre Poilievre on the first ballot. But in 2025, Poilievre lost his own seat of Carleton by a margin of about 5%,

despite having held the riding continuously since 2004 and even when the Conservative Party increased its share of the popular vote and elected more MPs compared to the previous election in 2021.

The Conservatives have set precedents over the last six years which now put them in a bind: they ousted Andrew Scheer after the election of 2019 and Erin O'Toole after the election of 2021 when they both managed only to hold the Liberals to a plurality in the House of Commons and a minority government. Older historical precedents might also not bode well for Poilievre. In 1983, Elmer McKay resigned his seat in Central Nova so that Brian Mulroney, whom the Progressive Conservatives had just elected at a leadership convention, could run in a by-election and enter the House. But McKay did so with the understanding that the next election would probably happen within one year or so.

Perhaps not in a century has a party leader's loss in his own riding come as such a shock. Mackenzie King, the incumbent prime minister, lost his own riding of York North in the election of Oct. 1925 where Arthur Meighen's Conservatives won an overall plurality. But King insisted on remaining Prime Minister and testing the confidence of the new House of Commons, which his ministry obtained during his absence on Jan. 14, 1926. Charles MacDonald resigned as the Liberal MP for Prince Albert to allow King to run there. King won by acclamation and re-entered the Commons in February because Meighen had decided that the Conservatives would not contest the by-election. King still controlled the levers of government and at least held some control over the timing of his by-election in a way that Poilievre cannot today. Funnily enough, King lamented in his diary that he had lost York North because the special electoral boundaries committee had shifted its boundary farther south into Tory Toronto and he did not intervene to gerrymander

it more overtly in his favour instead.*

THE CLOSEST AND MOST inauspicious precedent happened in the early 1940s. Meighen returned to lead the Conservative Party once more on Nov. 12, 1941 while the party languished in opposition; he resigned from the Senate and tried to re-enter the House of Commons in a by-election. Meighen won 42% of the vote in South York but still lost to J. W. Noseworthy of the Co-operative Commonwealth Federation on Feb. 9, 1942. Meighen

later resigned as leader of a rudderless Conservative Party in Dec. 1942. Ironically, Meighen's biographer Roger Graham recounted that Conservatives tried to persuade Meighen to run not in York South but instead insisted that "he should have gone after a really safe seat like Carleton" — until recently, Poilievre's riding of 21 years, which in 1942 covered almost exactly the same territory as it does in 2025.†

Earlier this year on May 2, Conservative MP-elect Damien Kurek pledged to resign to allow Poilievre to run in a by-election in Battle River-Crowfoot, which Kurek won by 81.8% of the vote. The Prime Minister graciously pledged to advise the Governor-in-Council to issue the writs of election right away.

It was announced that His Majesty King Charles III would open the 45th Parliament on May 27 with a Speech from the Throne. Mr. Poilievre, if he remains as Conservative leader and takes a seat, would serve as the Leader of His Majesty's Loyal Opposition, though not until September. As for Mr. Kurek, he could have to wait up to four years to run again in the same seat or another, given that the Liberals are only a few seats short of a majority.

— J.W.J. Bowden

* King Diary, Nov. 4, 1925.

† Roger Graham, *Arthur Meighen III: No Surrender* (Clarke, Irwin & Co., 1965), p. 129-130.