



Interview with Steve Ashton ¹⁴⁹

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I. INTRODUCTION

Steve Ashton studied politics and economics, served as president of the University of Manitoba Students' Union, and was employed at I.N.C.O. in Thompson before being elected to the Manitoba Legislature in 1981. As a member of Howard Pawley's government, Ashton was appointed Government Whip and served as a legislative assistant to the Minister of Labour. In 1989, Ashton was appointed House leader. When the New Democratic Party formed government in 1999, Ashton was appointed Minister of Transportation and Government Services. He served in this capacity until 25 September 2002, when he became Minister of Conservation.

A veteran member of Manitoba's legislative assembly, Steve Ashton has witnessed every legislative crisis over the past twenty years. After serving almost half of his legislative career as House leader, Ashton has in-depth knowledge and familiarity with the rules and procedures of the legislature and has seen those rules through the eyes of both an opposition and government member. We spoke to Minister Ashton about the more notable events in the legislature's recent history, his memories and thoughts on how those events unfolded, and his suggestions for reform to avoid similar crises in the future.

¹⁴⁹ Interviewed by E. Melrose (24 September 2002).

When you first entered the legislature, did you find the rules to be hard to follow, hard to get used to?

Ashton: I found my background in political studies and my earlier experience and interest in politics to be useful in terms of learning about the procedure. What I found is if you take out the specific wording of the rules, some of the details, you still have a very pure system that has evolved over time. We often tend to forget that the origins of parliamentary democracy are very similar to what we see with Aboriginal forms of government currently, the gathering of the nobles, gathering of the chiefs. But if you run through that whole history to where we are currently, a lot of that is still in the rules. There may be some archaic formulations and there may need to be some reform of the parliamentary process, but it still has very significant elements. I find that it's a system that works, I really believe that. To quote Churchill and what he said about democracy, you could say that about parliamentary democracy, he said it's the worst of all possible systems but it's better than all the rest. We're trying to change to more plain language, to clear up some of the archaic language. Even those of us who have some sense of parliamentary rules don't always know why a particular procedure or rule is there. But generally there is a process. Government is there to raise money and determine where it is going to be spent and to pass legislation and be answerable to the public which is unique in our system. This is maybe why I continued my interest in the rules and became House leader for ten years, because I believe the rules are important.

II. THE FRENCH-LANGUAGE DEBATE

Can you recount some of your memories' of the French-language debate? What did you think of the tactics used by the opposition, the bell-ringing for 12 days?

Well, I found it to be a very disturbing time in Manitoba history. The intent of what happened was to bring in a constitutional amendment in recognition of what was being increasingly established in the courts. You have to go back to 1870 and the evolution of Manitoba as a province from what was a francophone and Métis majority to the point they were a minority and French-language rights were quite literally voted out of existence, although not necessarily in a constitutional sense.

What happened during the French-language debate is there was a gut reaction against a constitutional amendment. What the opposition did in terms of tactics I thought was absolutely reprehensible because they adopted a position of paralyzing the legislature. I have always been a believer that the role of opposition is to obviously provide critique but not necessarily to have the ability to completely block something a democratically elected government is doing.

The Conservatives paralyzed the legislature—they won the political battle—but they lost the next election. There's a lesson you can take out of what happened politically: if they had let the government pass the legislation, it might have had a different political result. So there's an irony there. They took a very political approach and it backfired on them politically.

I realize there was some discussion about the appropriate consideration of constitutional amendments. Constitutional amendments are in a different category. I was disturbed minority rights were being held up by using these types of tactics. I don't believe you submit minority rights to referendum. I find absolutely offensive what the B.C. government has done in terms of Aboriginal treaties, putting that out to majority test. Within the parliamentary system itself, there is a clear position of defending against the tyranny of the majority.

The parliamentary system is built fundamentally on the right of proper process, proper debate but also respect for minority rights. Now the irony is the courts basically have established French-language services along the exact same lines. The Filmon government, which put up such opposition against the initiative, basically proceeded to implement French-language services. The other irony is French now is probably the most common language in Manitoba besides English, and this was not true years ago. So, the same opposition wouldn't necessarily happen today, but it's an absolute case in my mind of why you don't proceed that way when dealing with minority rights.

So, the bells rang for 12 days ultimately. Did you think Speaker Walding should have intervened at some stage to shut off the bells and perhaps force a vote to take place?

At the time if you had asked me that question, I would have said yes. Today, I would have a different view. The problem to my mind is when Speakers step in unilaterally we end up with situations like the MTS fiasco. It's interesting because we have had three examples of this, the French-language debate, Meech Lake and MTS. We had three Speakers given three choices. The most correct choice was made by Speaker Rocan in terms of procedure and resisting outside pressure. In retrospect, I would say Speaker Walding probably had more of an option to shut down the bells than was acknowledged at the time. But the problem again was that there was a fault in the rules. If there's a fault in the rules, you have to fix those rules. So I am not totally critical of the Speaker's decision. It goes back to the evolution of the parliamentary system.

A lot of what makes up the parliamentary system comes from the British system which of course has no written constitution. What developed was more of a "gentleman's" sense of what was appropriate which became very much a part of the parliamentary tradition. When you no longer have this sense of a moral

code of conduct, it can mean that you maybe have to be more defined. You have to have more preciseness in the rules to protect all interests. You can't rely on the sense of fair play by all the participants. 1983 proved that you couldn't rely on any sense of fair play in my opinion in terms of minority rights. So, I don't blame the Speaker. The problem was the rules.

Was there any discussion back in caucus of letting the proposal go for the time being then coming back and re-introducing it?

In the end, politically, the opposition probably did us a favour. I still believe the damage it did to the social fabric far outweighed any political plus or minus for either side. I really don't believe you treat human rights in that way. But in the end, the tactics were almost irrelevant. Once they shut down the legislature, what would their tactics have been if we brought it back in again? They had the power to shut down the legislature again. Look at Meech Lake—once it was dead, it was dead. Look at MTS—once it was sold off, it was sold off. There are certain things you can't undo. There are some things that, at a certain point, you may have some theoretical choices, but we had no other choice. To a certain extent, what we were doing was totally appropriate within the parliamentary context. We were elected to govern. We received a majority. In this case, the majority was doing something to support minority rights. We had the perfect right to do that. It's funny how things have evolved. Now it is the courts that are stressing minority rights in a lot of cases and legislatures are now finding that doing the right thing in a moral sense does not always benefit you politically. So, rather than pass legislation, just let the courts do it. Once the *Charter* was introduced, I think the courts took over that role. I still think there's a role for legislatures to take a lead and show some political courage.

III. THE DEFEAT OF THE PAWLEY GOVERNMENT

Did Jim Walding's vote with the Conservatives against the budget come as a surprise to you, or was there some indication of what he was planning to do?

I sat next to him and he certainly demonstrated strange behaviour that day. There were signs. He was under a lot of pressure. The first thing he said when he left the legislature was that he couldn't stand the pressure. There are still people who feel there was more than just pressure. I tend to subscribe to that view as well. My view on it is that I believe what he did was wrong. Once again, you had some short term pressures on the government. I think it really betrayed the caucus he was a part of. I still think it was a very regrettable phase in terms of Manitoba politics. I really do believe if you are elected as a New Democrat, you sit as a New Democrat. It would be appropriate for a member to resign, but I think it is inappropriate what took place. You are elected because of who you

are but also because of the party you represent. He owed it to the people who elected him as a New Democrat.

Do you think the opposition was just as surprised as you were?

No. They knew. There were people up in the gallery. They knew. There are various conspiracy theories about what happened and, there's no grassy knoll, but I saw enough before, during and after that. I didn't believe in conspiracy theories before what happened in 1988, but I certainly have a strong suspicion that was the case. If you have a vulnerable government and a vulnerable member, why would political opponents worry about spending millions of dollars defeating a government in an election when you can put all sorts of pressure on one person. That was the most unfortunate aspect of what happened. Having said that, we were out of step with the public. It took us basically 11 years to rebuild because we had to take some lessons from what happened. So, I am not a believer that the public is wrong when they defeat a government. In the end, in a democracy, the public is always right. Whether you agree with it or not, they're right. So, I'm not using what happened as an excuse for not being re-elected. Still, it was a very bad precedent.

Again, back in the caucus room, was there some discussion as to what the next move would be, or was it fairly clear an election should be called?

There were some questions about the parliamentary system that were asked, questions of whether this in and of itself was it or whether there was a prospect of a re-vote. Remember there was also a Liberal member, Sharon Carstairs, and there was some discussion in terms of whether a confidence vote would override the vote on the budget. But it was very clear to everyone involved that there is nothing more significant than a defeat on the budget. That is probably the only type of vote that is clearly a non-confidence motion. If you are defeated, you're gone. There was no two ways around it. Part of it is, even if you could come up with a scenario or find a way around it, there's a lack of legitimacy around that. You really go around the democratic process. So, we had to go to the polls and I believe we did the right thing.

IV. THE MEECH LAKE ACCORD

Some have suggested Prime Minister Mulroney did not fully appreciate the circumstances Filmon faced in Manitoba—the public hearing process, etc. and thought Filmon could just push the Accord through.

Mulroney miscalculated dramatically. He rolled the dice. He probably did the right thing in a negotiating sense, waiting until the last minute, but he

miscalculated in this case. He had no margin of error in terms of the Accord's passage in Manitoba, for obvious reasons. First of all, we have public hearings and second of all, because Filmon had a minority government. So, there wasn't the same ability in this jurisdiction to just ram this through. We have a very cumbersome system, even today. There's closure, but even that is a cumbersome system.

Having said that, it could have been passed. You had all three party leaders support it, you had a split in our caucus, and Elijah Harper and some others who were opposed to it. We had indicated we'd make best efforts. What was interesting was even though a few members were opposed to it, there was only one member who really had any moral authority on the issue and that was Elijah Harper. The question is whether they are going to show up and actually stay through the process. Hearings can go for days on end. I've been in opposition and I know what it's like to want to get people to show up. Everyone shows up on the first day, and then it dwindles off. So you tend to find the number of people signed up doesn't accurately reflect the number of people that would have actually presented.

There was enough time to hold committee hearings in my view and get it back into the legislature. The problem was though, if you go back to the point of order that killed Meech Lake, the problem was there were grounds for arguing the notice procedures weren't followed. On the other hand, you could argue it was kind of a grey area. I went through the rules myself and determined there was a possibility it could be argued this way.

When I did communicate it to the government house leader of the day, he basically thanked me for it but suggested that I not tell anyone else. It wasn't a question of not telling anybody else, we had the current Justice Minister, former deputy clerk of the House, advising Elijah Harper; we had various members of the NDP caucus who knew the rules. We had always said we would make best efforts to get the Accord through but that didn't mean we would do it at any cost. When Elijah Harper rose in the House on the point of order, I argued that it was a legitimate point to be considered.

What was interesting is that the Speaker then adjourned the House to consider the point of order. He was under a lot of pressure. Only he could tell you what kind of pressure. It was this scenario of "the fate of the nation" resting on this. It was a legitimate point of order and I particularly felt strongly no matter what your goal was, whether you supported Meech Lake or not, it had to follow the proper processes.

You can't in my mind determine a constitutional matter through a process that itself is flawed, even if it's only morally flawed. Technically, it could have gone through if this problem with notice had been anticipated. It was interesting because Mulroney really had no understanding of this. I think he actually quoted me in the House of Commons saying that the NDP House leader said it could be passed, and it was true but not without proper process. That's what he misunderstood. I still believe we did the right thing. The ends do not justify the means—not when it comes to the constitution.

V. THE MTS DEBATE

The agreement you entered into with the Conservatives was generally that they would introduce bills in the spring, and you would normally vote on the bills in the fall session. What are some of your general views on how the whole debate played out and how the government used the rules, or the agreement, to get done what they wanted to get done?

Part of this goes back to the experience in 1983 and the French-language debate. I do believe in having more sane rules. At one time, we had unlimited Estimates in a given year. We still have far too many hours now—way out of line with other provinces. We have committee hearings, which are a unique feature of Manitoba's legislative process, on every bill. I've always believed in rule reform. I also was one of the key proponents of the rule change. What we built into the rules was the reference you quoted, "shall normally" pass through by such and such a time. We built in that factor because, for example, how would we deal with a constitutional issue? Constitutional issues deserve a greater level of scrutiny. So I supported the rules and the rules I think were working.

The day we reached the deadline, we were still in committee. We had a lot of substantive amendments. Quite frankly, I was always surprised the government House leader didn't come to me and say, 'we're not going to quite finish by the deadline—how much time do you think we need?' Because that would have been the appropriate procedure. Instead, it was the Premier basically who said that's it. We saw what happened—the Speaker shut down the House, and refused to recognize opposition members. It was just a flagrant abuse of the role of the Speaker.

Now, when I reflect on Speaker Walding in 1983, in retrospect, the flaw was in the rules. He didn't do what Speaker Dacquay did at the time. What she did was basically invent the rules. It was particularly frustrating when it came to MTS because this was an irreversible decision. It was structured in a way that was irreversible. They structured it so the shares were immediately flipped over.

So, you could argue, MTS was almost like an economic constitutional issue. That's why, while I'm not a big fan of referenda when it comes to minority rights, when it came to MTS, I argued very strongly that there should have been a referendum. They had no mandate in the election, period. They said they weren't going to sell off MTS; they repeated that in the House. That was the first question I asked in the House after the election. And then they proceeded to sell it. By the way, it didn't go to caucus. This was reported back to me by some PC Caucus members. The decision was made by a very small group of people. But what the Speaker did was absolutely reprehensible. Once again, the end does not justify the means.

Having said all of that, I actually still believe those rules were far better rules than what we had before and I'll tell you why. We had earlier notice on bills. They weren't introduced in June and passed two weeks later in the middle of the night. We had a chance for public debate and extensive public hearings. It's hard to compare 1983 and 1996, because at one end you had the total denial of the rights of the government, and at the other you have the denial of the rights of the opposition. Both of them lead to the conclusion that we don't live in a world where we can rely on "gentlemen's rules" anymore—we have to have more specificity in the rules.

As far as I'm concerned, what the Speaker did is what the government wanted the Speaker to do and that in itself raises questions about the impartiality of the Speaker. The Speaker should never be an extension of government. One of the things we've done to correct that, by the way, is very significant. We now have elected Speakers. If you look at the current Speaker, he is not only fair but he is also seen to be fair.

Some have argued if the government really had a strict timetable, really needed to get the MTS bill passed by a specific time, they should have used their own ability to invoke closure and should have left the Speaker's position out of it.

First, the rules said the bills were "normally" to proceed in this manner. This was not a normal situation. Second, they had the ability, through the rules, to bring in closure. They had the ability through the rules to do it and they didn't do it. There is no doubt in my mind that what the Speaker was doing was what the government wanted the Speaker to do. Now what the details were of the back and forth is between the Speaker and the government of the day to answer to. They had choices and what they did was poisoned the legislature far more than it would have been if they had invoked closure. I believe they poisoned the impartiality of the Speaker. It's as simple as that. Along with the switch now to an elected Speaker, I hope to see some changes to the rules as well because I still think that model makes far more sense, with some adjustments, than the

current system. The idea of a more fixed calendar is positive—more notice to the public, more time for the committee process to take place.

VI. TOOLS OF OPPOSITION

Some of the crises we have discussed have involved the use of the rules, tools and tactics available to an opposition to stall and delay government initiatives. Over the years, many of these tools have been whittled away or restricted—bell ringing, for example, is limited to one hour, there are limits on how long members can speak. Do you think an opposition still has enough tools available to adequately stall and make a point in opposition to a government initiative, or do you believe at this stage, if you have a majority, the government can pretty much push through whatever it wants?

If you actually go through the rules, the current rules still contain 101 tactics open for an opposition to use. It's interesting because I've seen these used in both government and in opposition and have used some of these rules during the debate on MTS. I have always felt some rules you just didn't use because they were more destructive to the process. I also believe the tactics used have to be part of the parliamentary tradition in the House itself. There is kind of a moral authority. In my mind, ringing the bells for 12 days lacks moral authority. Tactics without purpose, delays for the sake of delay, really misses the point. What you're trying to do is, within the parliamentary tradition, you're trying to slow things down or get some attention. I think if you look at our rules, there are still 101 ways in which you can delay or even sabotage the process if you want to sabotage the process. I also believe governments should be able to govern; I believe that in government, I believed that in opposition, but you can't cut corners. You can't let the Speaker shut down the legislature. You should never put the Speaker in that kind of position.

VII. PROPOSALS FOR REFORM

One criticism of the current system is how MPs and MLAs are elected, that is through the first-past-the-post system. Some have argued an element of proportional representation should be introduced. Do you have any views on this kind of system?

I am not a fan of proportional representation. I believe the parliamentary system is very good at doing two things: one, providing direct representation; two, representing diverse interests. By having an MLA for Thompson, you can often compensate for lack of numbers of representatives with the ability to voice the concerns of an area. If you introduce proportional representation, in a lot of cases, you'll end up with a party list system. So what happens is it will tend to reflect the choice of the party leadership rather than the choice of the people voting. I was not what you would call the "establishment choice" when I was

first nominated in 1981. The U.S. system also has a strong constituency presence, but what they don't have is the second element which is the ability to have governments that have a strong party structure which lead to the ability to deliver programs. Proportional representation can lead to perpetual minority governments. My view is that coalitions generally can be positive, but they are usually more of a transitory involvement. So, proportional representation may mathematically provide what appears to be better representation, but in fact it can actually work the other way. The people that are [elected] don't necessarily represent the constituents' interests. So, I'm not a fan of proportional representation.