



Interview with Darren Praznik ¹⁶⁰

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- Darren Praznik

Any minister who is not prepared to accept reasonable suggestions or improvements from the opposition or the public does so at their own peril. You look stubborn, you look like you're on an ego trip as opposed to being a good minister, and I think you're always better to be flexible in the process...I always respected those groups who came to me and said 'we're opposed to your public policy decision, but if you're going to do it, these things make it better'. I mean, why would you just want to make it hard for people for no reason?

- Darren Praznik

I. INTRODUCTION

As a young lawyer, Darren Praznik was first elected to the Manitoba Legislature in 1988. Under Premier Gary Filmon, Darren served as Minister responsible for a wide variety of portfolios, including Labour, Energy and Mines, Northern and Native Affairs, Health, and Highways and Transportation. Darren continued to serve as a member of the Official Opposition from 1999 until February of 2002. He has since served as Executive Director of Government Relations for Canadian Blood Services.

Over eleven years in government, Darren was witness to a number of notable legislative crises, including the failure of the Meech Lake Accord in 1990 and the Manitoba Telephone System privatization debate in 1996. With his great appreciation for legislative procedure, Darren was able to provide us with keen insight into the significance of various legislative events. He also shared his unique experiences and views on how legislative business is carried out, the challenges faced by both governments and oppositions, and the importance of traditional Parliamentary procedure.

¹⁶⁰ Interviewed by B. Schwartz and E. Melrose (14 June 2002).

II. THE MEECH LAKE ACCORD

After Prime Minister Mulroney's famous 'roll of the dice' meeting, Gary Filmon brought the Meech Lake Accord back to Manitoba for ratification by the legislature. Did he have enough time after that meeting if everything went smoothly, to complete the process of consultations and pass the resolution before the deadline?

Praznik: There was enough time to do it if everything went well. A good parliamentary system is about checks and balances. Ultimately, the majority will rule, as it should. But, the minority members of the House have huge ability to make the government go through a lot of process before they ultimately rule. As for Meech Lake, the deadline left a very short timeframe for the system to work. Even assuming the majority of the members of the legislature wanted Meech Lake to pass, the minority who may have been opposed to it had all those tools available. So in order to fit within that time parameter, you would have needed a lot of cooperation to see it come to a vote. And of course, it is the prerogative of minority members on a position to use all the tools and rules of the legislature to advance their cause. That's part of the check and balance.

What was the rule that had to be waived by unanimous consent that was the hang up?

We have provision that a bill or a motion or resolution, had to be tabled with the Clerk's office so many days before it could be presented in the House to allow for translation into French. And then there were so many days between introduction and first reading, when it appears on the order paper, etc. I think what had happened was there was some issue around the translation period. Normally what happens is the House leader's office would consult the Clerk staff about the timing. I think this was so new at that particular time, in terms of the constitutional rules of this resolution, that a mistake was made that cost a day or two in terms of when it could actually come to the House. Timeframes were very tight, but it still had to walk through all of those steps. Those steps are there for a purpose. They're there so that a majority cannot ram through a piece of legislation. So, what Elijah Harper was doing was exercising his right as a member of the legislature to say no, I will not grant unanimous consent to waive this rule.

What must it have been like for Speaker Denis Rocan when he had to rule on these various motions?

You know, it was pretty simple—the rules were there. Elijah Harper was using the rules. The Premier got up every day and asked for leave. Was there unanimous consent to waive the rule? There was no unanimous consent. The real frustration that I remember was not so much with where we were in the

legislature, because you can't do anything about it. The frustration was that the federal government did not understand and they had no appreciation that we were in a minority government. They had no appreciation that there was a whole other provincial political dynamic going on.

What are the technical resources available to a majority government to say "okay, you don't give us unanimous consent—we're going to do it anyway"?

None. You'd have to change the rules of the house. And the trouble with doing that is change does not happen in a void, it happens in the court of public opinion. Oppositions are able to use those rules, to delay a bill, to make sure it gets public hearings. If the government feels they are getting too much public backlash to a proposal, maybe they start backing down, maybe they amend, maybe they drop the bill off the order paper, and that's part of the checks and balances. So, even if the majority of members in that House had said we support changing the rules, would they have been prepared to face the public backlash in doing that? I would think not at all because it would have looked just so dictatorial, that we were changing the rules of the game to deny a minority member the opportunity to have public hearings on something the public wasn't happy with, for the sake of passing the constitutional amendments—it just wouldn't have played. So, the public are ultimately the check and balance of the system.

IV. THE MTS DEBATE

The MTS debate was the outgrowth of a formal agreement made among the House leaders which resulted in a new set of rules which had a trade off. There's obviously plusses and minuses to that deal, and that deal hasn't been revived. The minus part obviously for the opposition is that they gave up their tools of stalling and delay. What do you think of it in retrospect?

Well, there are plusses and minuses to both, obviously. You're very right in the trade—the tradeoff was the government of the day would have to have all their bills into the house by the end of June. We would adjourn for the summer. We would come back for a longer legislative session in the fall. The tradeoff was we would get them to people early, so there would be a period over the summer for an opposition and the public to look at the bills, contemplate their positions, and then we would come back relatively early in the fall and we would deal with legislation. The guarantee, of course, was by a certain date, every one of those bills would be brought to a conclusive vote. We thought that was a good way to deal with it, everybody liked the idea. The difficulty was that the first time it was tested we had one of the most philosophically divisive bills that we had seen in the Manitoba Legislature.

The privatization of MTS was one of those wedge bills that really divided the two major parties along a very critical line. It was one of the first big issues where there was really very strong feelings and in that kind of milieu, the New Democrats made a decision, and I can't speak to their decision making, that they would not follow the rules to the end and they would push beyond that date which forced the government, who had relied on those rules, to push for those rules to be given effect. It put the Speaker in a terrible, terrible position. But in fairness to both Jim Ernst, who was our House leader, and Steve Ashton who was the NDP House leader, the dynamic was beyond anybody's ability to work a settlement.

Some people have said there were compelling business reasons why you couldn't have this drag out, so this was going to have to be passed within a certain timeframe one way or the other. One way to do it was Speaker's closure, and the other way was to use your tools of speed up and government invoked closure.

Invoking closure does not necessarily guarantee that you are going to pass it through the House. It's still a long, drawn out process. Closure and speed up really condense the process, but it does not guarantee that in two or three more days, you're going to have a decision. But secondly, we had lived by our end of the bargain, and we had an expectation that once rules are agreed to by the House, they're operative. So, you can't walk away from it. Those rules were operative and this was not a choice of saying we want to stand by them and the opposition doesn't. The opposition was bound by those rules.

From your perspective, you felt the NDP had reneged on an earlier agreement?

Yes they did, and it was their prerogative to do it. To change the rules again would have required unanimous consent. The Speaker was bound by the rules and it would have required all parties to agree to walk away from those rules. Until those parties agree to that, the Speaker is bound by the rules. The Speaker didn't have a choice.

V. TOOLS OF OPPOSITION

In terms of the checks and balances in the legislature, one view is that tools available to the opposition are steadily being whittled away. Does an opposition that really wants to put a government through the wringer still have the technical resources to do that, or have these tools been whittled away?

A huge pile of resources are still available. What you're really fighting for as an opposition is to do damage to the government in the public without doing damage to yourself. If you have an issue come up that the public is already very

angry at, and the government is hell bent on proceeding with it, then you want to drag that process out for a long period of time, and quite frankly you ultimately want them to pass it into law so that they really make the public mad. Then, there are those issues that you believe you can get the public very angry at. You want to raise the public interest in it—and that doesn't happen overnight, sometimes it takes weeks or months—you want to raise it over a period of time so the public really gets angry about it, and you want it to start to stick to the government and again you want it to then be passed so they have to wear it during the next election.

What are your tools to do that? For one thing, when a bill comes into the House, you have all the normal rules about how many days of debate, or how many days before it can be introduced. Make sure you maximize that. Every day the House is sitting, you have question period. So you want to keep the House sitting so you get those question periods. You want to use question period to start to unravel a bill or an issue, and get the media interested. In each stage of debate, every member of your party has the right to speak for 40 minutes. So, you can drag on the debate. The leader of the Opposition, or the leader's designate, has unlimited speaking time on any matter. Also, you can move amendments at any stage, and members can also speak 40 minutes on each amendment.

Then once you get through second reading, under the Manitoba rules, you have to have legislative hearings. Well, if you have a lot of people that are angry about this, you just organize for literally hundreds of people to get on the list for those public hearings. The government then has to sit day after day after day. Whether they choose to shut it down, or sit through the night, it gets public attention. It tests whether the government is really prepared to face the public wrath. Then you have report stage, which allows the whole procedure for amendments. You have third reading, during which you could have every member speak on it again. The leader can speak unlimited time.

Now, the check on the opposition is how far you're pushing the public. If you get to the point where you start doing damage to yourself, then it's time to get it through and live with the damage. But if you're inflicting damage on the government, then it's a matter of walking it through until you think you've inflicted about as much as you can, and then if you can get it through the system, you can say, "boy, that government sure doesn't listen, look at all the people who showed up at the committee hearing, we made all these amendments that would have fixed all these things and they voted them down". If you have an issue that you really want to do damage to the government with, and you can get the public on your side, the tools are huge.

To all of those, couldn't the government keep making closure motions and shut you down?

Yes, but then they've got to explain why they're shutting down debate. Governments are reluctant to move closure because then you can make an issue that the government is arrogant and they want to stop debate. Again, in the court of public opinion, that can be very damning. In addition to that, there's an old saying that is very true: governments start sessions, oppositions end sessions. And if a government wants to ram through a piece of legislation, the opposition can do so many things to delay and hold up the end of session, and it may not even be that bill. There's a whole agenda of things happening in parliament. You want to slow things down. So, the powers of delay are huge.

VI. INSIDE THE LEGISLATURE

Is it your perception that what goes on in the legislature makes little difference, a lot of difference— how would you rate it in terms of ultimate parliamentary success?

It's something that will vary on a host of circumstances. When you have a minority government, you're in a very dynamic situation. You will have a much greater focus, because there is always that sense that the government could be defeated. The media are interested because they know something could happen, so they're there every day. When you get a majority government, particularly one that's popular, and you have a weaker opposition, the media aren't interested. They don't spend as much time in the legislature—it's not where the public mind is. So, your question really is dependent on those types of circumstances.

But you can still have a great deal of effect if you are in opposition and have the ability to be continually picking good issues that get the public's attention. You can whittle away at a government. But it takes a great deal of skill. You have to have the ability to pick out the issues, and you have to have some political smarts to know what you can make an issue to catch some media attention. So, if you do get some of that, and the media know they're going to get some interesting stories on a regular basis, they will be there. If they don't think there is anything happening, or the opposition is pretty predictable, there's nothing really exciting or interesting and they have other stories to write.

What is the current practice in the legislature regarding who can ask questions of the Government? Do government backbenchers get an opportunity to ask questions like the opposition?

We often think of 'government' and 'opposition'. The government is not the governing party. The government is Executive Council, it's the cabinet ministers. So, members of the New Democratic Party today are really members of the legislature in support of the government, not members of the government. So they are entitled, like any other member of the legislature, to ask questions of Ministers. They are not precluded from using question period simply because they belong to the party from which the cabinet is drawn. In the old days, you had to catch the Speaker's eye and be recognized to speak. In Manitoba, what started to happen when we had the minority government is that the house leaders got together and decided on a rota to split the questions up on a fair basis between the parties and that also allowed for the governing party to have their backbenchers have a question or two at a certain time. Currently, the Conservative Opposition gets the first 5 questions, the Liberal, Jon Gerrard, gets the 6th question, and NDP may get the 7th question at their option. After that, I believe it is still the Speaker's eye. So, all members of the legislature have a certain place on the order to ask their questions.

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30th Floor, Commodity Exchange Tower
360 Main Street, Winnipeg, Manitoba, Canada R3C 4G1

Telephone (204)957-0050 Facsimile (204)957-0840 E-Mail: amt@aikins.com Web Site: <http://www.aikins.com>