



## Interview with Howard Pawley <sup>143</sup>

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### I. INTRODUCTION

Former Manitoba Premier Howard Pawley attended school at United College, now the University of Winnipeg, and obtained his law degree from the University of Manitoba before being elected to the Manitoba Legislature in 1969. He was immediately asked to join Premier Schreyer's cabinet and served in a number of capacities including Minister of Public Works, Municipal Affairs and Attorney General. In 1979, Pawley became leader of Manitoba's New Democratic Party, and in 1981 the NDP was elected into government. Howard Pawley became Premier of Manitoba and would serve the province as Premier for almost seven years.

Through almost twenty years in the legislature, most of them in cabinet or the Premier's office, Howard Pawley has had a bird's-eye view of a number of Manitoba's more controversial and memorable legislative crises. He spoke with us to share his unique views on these events, and he offered suggestions on how legislative practice could be improved in light of the lessons he learned in office.

### II. THE FRENCH-LANGUAGE DEBATE

*Can you give us a brief recount of your memories of the French-language debate and how the debate played out?*

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<sup>143</sup> Interviewed by B. Schwartz and E. Melrose (18 September 2002).

Pawley: The bells still ring in my ears! The bell ringing was quite a traumatic experience, day after day of bell ringing.

*What are your views on the tactics used by the Opposition?*

First of all, I will give credit to Sterling Lyon. I think his opposition was sincere; it was honest. In my view, incorrect, but he felt we were wrong. However, as time progressed and we made overtures, the opposition ought to have been more accommodating because that would have been in the interest of the province as a whole. It would have avoided the Supreme Court decision of 1985 which ended up burdening the province with tremendous costs because all the statutes from 1890 had to be translated—a useless expenditure of money. So I criticize the opposition at a certain point. And I would like to speak later about perhaps some of the mistakes we made during the debate as well. I know there was nothing during my time as Premier that benefited the opposition more than the French-language issue. Our support dropped to 14 percent at one point in the polls because of our position. So, there was no question the opposition was benefiting from the politics of it. But at a certain point, when we made some constructive compromises, when we agreed to have committee hearings, at that point I believe the opposition role should have shifted to being more constructive rather than purely opposing. The reason they didn't is because they were receiving a great deal of pressure from their own rank and file—which was against any accommodation or compromise—and it was also benefiting them politically. Certainly, they had done polling that showed our support had sharply plummeted.

*Was it your sense the opposition would have rung the bells indefinitely?*

That was the feeling we had at the time, and we didn't see an end to the ringing of the bells by the opposition. I don't know what their real intent had been, but certainly we had thought they were going to continue to filibuster the vote in the House. We felt at the time we had no choice. There were three reasons why we pulled back. Firstly, was the opposition—we had no reason to believe they would discontinue the bell ringing. Secondly, we certainly knew our political support was plummeting to record lows at that time. Thirdly, there was the issue of supply—we were being advised by officials that we were going to be running out and we were unable to issue special warrants.

*Was it your view the Speaker should have turned off the bells the way Lloyd Francis<sup>144</sup> did in a comparable situation at the federal level?*

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<sup>144</sup> On 19 March 1984, a recorded vote was to be taken and the division bells began to ring calling members to vote. At 6:15pm, Speaker Lloyd Francis, assured that a vote could not

Yes, we felt he ought to have. Sometimes the Speaker has to do the unpopular thing and we all felt he should have turned them off. We all felt it was incumbent upon him to do so. The opposition had hijacked the House and he ought to have made that tough decision. Interestingly at the time, there was considerable media commentary that was critical of the fact the Speaker had failed to take the initiative to turn off the bells.

*You mentioned there were a couple of mistakes the government might have made during the French-language debate. Can you elaborate on that?*

At the very beginning, I believe we all made a mistake in not announcing very clearly we were going to seek public input. We should have announced hearings and legislative involvement at the beginning. Instead we permitted a few days to go by where we seemed to be waffling on that and Lyon was able to score points. Although it may not have been successful, we should have also been more active in including Lyon and other members of the opposition in an attempt to gain their co-operation. Moreover, we should have had a better plan of action to coordinate the launch of the French-language issue. We got off on the wrong foot. As you may recall, Trudeau came out and made a speech in Winnipeg and heralded this tremendous advance in bilingualism. And it was through Trudeau's speech that the public became aware of the agreement between the provincial government, the Society Franco Manitoban, and the federal government. There should have been no premature announcement. Some have argued we tried to sell it too much on a legal basis and it would have been better to emphasize the historic and social justice reasons for the legislation. Personally, I don't think it would have made much difference in the final outcome. Unfortunately, the French-language Services issue blurred the success we were having on the economic front with Manitoba's record during the recession of the early eighties being among the best of any province in Canada.

*You mentioned having public hearings on the issue. Would that have been after a bill had been introduced or before the government introduced an initiative?*

That's a good question. Certainly we ought to have simultaneously announced we would have legislative hearings. As it turned out, the announcement we made turned out to be more of a teach-in. We were going to explain to Manitobans why we needed this legislation. I think it gave Manitobans the

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be taken until the following day, suspended the sitting, turned off the division bells, and indicated the sitting and the division bells would resume at 9:00am the following morning. On March 20, the Conservative Opposition chastised the Speaker, claiming that "there would seem to be no provision in either the Standing Orders or Beauséne's which would permit the Speaker unilaterally to suspend the sitting under any circumstances." See House of Commons, *Debates*, Vol. II (20 March 1984) at 2245.

impression we were too head strong, that we weren't interested in consulting them, rather we were telling them. So from the vantage point of selling, we got off on the wrong foot and we have to take responsibility collectively for that.

### III. THE DEFEAT OF THE PAWLEY GOVERNMENT

*Did Walding's vote with the Conservatives on the non-confidence motion come as a surprise to you or was there some indication that Walding was not planning to support the budget?*

It was a big surprise. I felt maybe I had been naïve and other members of our government had been naïve because we had not anticipated this. I can give you some background as to why this was the case. On March 1, eight days prior to our defeat, Walding had written Filmon and copied his letter to me where he posed the question of an independent speakership. Walding, as speaker three or four years earlier, had raised this same issue. We discussed it and we knew Walding had been soured off because he hadn't been appointed to cabinet and was always complaining that he wasn't playing the role he ought to be. It was my decision that we best be positive and thus we responded that we were interested in a legislative committee to look at this if the opposition was prepared to be co-operative and we would ensure Walding would play a pivotal part in such an examination. The day of the vote, I had asked Walding if he had had a response from Filmon, and his answer was no. At lunch that day, an individual Walding had been quite close to asked Walding whether he would be voting for the budget. That individual reported he was 98 percent sure Walding was going to vote for the budget. Walding had made media comments during the course of that afternoon; Sharon Carstairs heard one of them, in which he was indicating that he was supporting the budget. So, at 5:30 that afternoon when he voted against the government, it came as quite a surprise not just to us but also to Sharon Carstairs who was already standing on her feet voting non-confidence when Walding also rose to his feet to do likewise.

*Did it come as a surprise to the Tories too, or did they seem to have an idea of what was going to happen?*

I think they were not as surprised as us. House Leader, Jay Cowan at the time, reported to me that he had been told by the Conservative House Leader "you're toast" as the bells were ringing to call members in. Until the actual vote occurred, we were uncertain about what the Conservative House Leader was inferring.

*Did you know what to do in terms of House procedure at that point?*

We didn't know. It was a complete shock. It was certainly the most traumatic experience of my life and I think of most members in our caucus. Most members had not expected this. We certainly hadn't thought about it, based on the things I have told you—why would Walding show such an interest in his letter? Why had he wanted such an early response? We responded positively and Filmon hadn't responded. We didn't know how to deal with it. That evening, we checked with people in Ottawa—the House rules experts. There was some thought we ought to introduce a confidence motion ourselves to try to undo what had happened on the budget. That was based on the assumption Sharon Carstairs might have voted with us on such a motion. She didn't like us, but she disliked the Conservatives more. So there was a chance she might have voted with us. We eventually dismissed that route because we didn't believe it was wise, either parliamentary or politically.

#### IV. THE MEECH LAKE ACCORD

*Can you share with us some of your recollections on how the Meech Lake debate proceeded and the challenges Manitoba faced trying to pass the Accord? Others we have interviewed have indicated that it never really dawned on the Prime Minister, Brian Mulroney, Filmon might actually not be able to bring the bill through the legislature.*

In June of 1987, in the dying moments of that 18-hour session, I remember saying to Mulroney, “Look, in Manitoba, we're not just going to rubber-stamp this. We're going to take this to the public, we have required hearings. There is going to be opposition. We could be back to negotiate further changes” and I mentioned the Aboriginal factor because I was disappointed there was no gesture to them. I said, “I want to warn you, this had better not be left to the last moment.” And I think he thought Filmon could just go back home and push things through, but that was pretty naïve on his part because Filmon had a minority government at that time, and the Prime Minister should have been more sensitive to the fact there would be members in the legislature who would be quite upset by the Accord as it was worded, especially insofar as the Aboriginal aspect was concerned.

*So, even without Elijah Harper's stalling tactics—he used the procedures of the House to his advantage—Manitoba still would have failed to ratify the Accord in the time given?*

There were over 3000 people, a huge number of presenters, lined up to speak at the hearings and there were only days left. So, if they were going to be meaningful hearings—and I remember committing myself to this and Filmon did likewise—they were going to have to be conducted, if necessary, in shifts.

So, even if Harper had not done what he did, it really would have been down to the line. It's very questionable whether it could have been finished in time, unless they totally ignored meaningful and fair hearings and just rushed through them. But that would have been contrary to the intention of the legislative rules that constitutional changes would take place only after a full and meaningful legislative hearing process.

## V. INSIDE THE LEGISLATURE

*There's this theory of the 'friendly dictatorship'—the concern is once you have a majority, the majority rules and there aren't enough opposition levers to really stop a government that's determined. And within the ruling party, the cabinet controls the caucus, and the first minister controls the cabinet, so you basically have one person rule in this country. That person can really do what they want to do and no one is in a position to stop them. Do you think that theory has any validity or do you believe it's overstated?*

There is altogether too much power concentrated in the Prime Minister's office. It certainly has been quite evident in Ottawa and I think it can also be said to be the case at the provincial level. So, I agree with the statement that there is excessive power concentrated with the first minister and with cabinet and I also agree there should be efforts to disperse some of that power. I might have a different approach on how we ought to be going about that.

*How would you propose dispersing the power?*

We started to do some of this for the final year or two we were in government. My inclination was always in favour of giving backbenchers in the caucus more involvement and participation. Too often they feel like trained seals. There were a number of things we did in government. We always encouraged real votes in caucus and active participation of all members, cabinet and caucus as equals. We avoided this hierarchy attitude that cabinet told caucus what we are going to do. Cabinet had to share everything with caucus. First, we went to caucus to ensure we would obtain approval for a legislative process flow-chart. That was very important so caucus was never surprised with legislation. And we improved this over the seven years we were in government, the flow-chart idea. The caucus had just about as much influence over the legislative agenda as cabinet had.

There are other ways we tried to involve backbenchers within the caucus and I think we went further than most governments before or since. We had MLAs attend and participate in cabinet committees, sometimes attend cabinet meetings and report back. And we also made sure we gave very detailed

briefings of budget estimates and legislation to caucus. There are two areas I wish we could have gone further on. We could have improved the role of legislative assistants. Some ministers didn't use their legislative assistants as effectively as they could have. And something else that I'm not sure I agree with but I want to get it out there for debate: how about some rotation between cabinet and caucus. Is it not a good idea that some cabinet ministers spend some time in caucus and some caucus members spend time in cabinet? Should we have encouraged some rotation? I believe that is a proposal that is worthy of consideration if we are going to mean what we say about increasing the role of caucus. The reason we didn't go with this is because there is certainly the impression the public would have been turned off by that, they wouldn't have thought it was a wise approach.

I also want to add something about party discipline, and this all ties in to the involvement of caucus members in decision making. I want to make it clear, there may be instances where you could have more free votes—but I wouldn't go too far with that. If you can improve the caucus participation and involvement, and caucus works as a team, there may be little need for more free votes. The worry I have about free votes once you get into the legislature is it often pits one caucus member against another in a public venue and can create a dissention that one wants to avoid. Secondly, if there are too many free votes, the weak member, under tremendous pressure from lobbyists in his or her constituency, bends to pressure, breaks ranks, and then other members will point fingers at that member. So, I have some serious reservations about how far we go with free votes, except for matters of moral conscience.

*Do you see any ways or means or desirability of giving more power to opposition parties?*

Yes, I would also try to do as much as one could to improve the role of opposition members too. I think the two examples we have been discussing are two instances where it might have worked. During the French-language debate, we could have co-operated better and could have gotten some ideas from the opposition earlier in the process. More could be done to involve opposition members in legislative committees. Opposition members have to feel like they're not just being used, though. They have to feel like they have a meaningful role otherwise the whole thing can do more harm than good.

## VI. TOOLS OF OPPOSITION

*There are concerns that opposition parties nowadays have little ability, little leverage, to oppose government initiatives. What would your perception be about that?*

There is premature use of closure on debate—I saw a lot in Ontario during the Harris regime; they seemed to use closure way too quickly and prematurely and I think that is wrong. We suffered from the opposite with the French-language issue. You have to permit debate to take place rather than use closure. I think closure was used prematurely with the privatization of the telephone system legislation. It goes back to the question whether we're giving the opposition a sufficient role. It goes back to improving the committee process, to ensure it is more effective. We could improve the role of the opposition by improving the role of committees and other means.

## VII. PROPOSALS FOR REFORM

*In terms of the balance between the government and the opposition, one line of proposals we've discussed is parliamentary reform. The other line of thought is we have to change the voting system, the means of selecting members. Some people have argued we should have an element of proportionality in the legislature. In addition to the usual seats, some seats should be party seats based on popular vote so there is some counterbalancing of the effects of the first past the post system. Critics say this would lead to more minority governments, too much deadlock in the legislature. Proponents say it would be more democratic. Do you have any views on that debate?*

Yes, I do. This is one I still wrestle with and I have been persuaded federally we ought to be looking at it. The reasons I like it federally is that I think it would help ease the regional balkanization. We have too much of a situation at the federal level where parties are blanked out of various regions. So some compensation system would help ensure that there are a better proportion of members from different parties and regions and this could reduce regional tension. We don't look at Canada anymore as a nation, rather it is one of regions. We have the Alliance in the west, the Bloc Québécois in Quebec, the Liberals in Ontario. So, I see such a system as having advantages federally. From my experience in Manitoba, I'm a little hesitant insofar as Manitoba is concerned, however, and I'm not necessarily prepared to say no. The reason I am reluctant to endorse it in Manitoba is because I look back at the legislation that we were able to achieve and I am concerned much of the progressive legislation wouldn't have come about with proportional representation. I can give you the example of auto insurance. I don't think we would have had public auto insurance. The Liberals and the Tories were both opposed to [Limestone] at the time. More Liberal seats holding the margins would have prevented the development of Limestone which I believe was a good thing. So, I worry some of the legislation that stood out among the best reforms may never have occurred. However, times are changing! You have to look at the advantages of proportional representation. Many citizens are getting turned off politics completely, fewer and fewer are actually voting. And they don't want to vote



because their votes don't count anyway. They don't have any confidence in the major parties. So, I think at the federal level we should be going with proportional representation so votes have more meaning, they count for more. Provincially, the jury is still out as to whether it should be applied at the provincial level.

