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# *Lessons From a Very Political Life*

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by **Hon. Howard Pawley**

*Public opinion polls show that Canadians have lost respect for their political parties and institutions. They are more inclined to engage in protests or to work for interest groups to influence public policy. Parties are seen as less representative of their views and more interested in fundraising and electioneering. This article, drawing on many decades of political involvement and academic study of politics, suggests some things that might be done to regain public support for our parties and institutions.*

Political parties today fail to involve their membership in policy development. Members wish to do more than wear a button during an election campaign and raise funds in between. Members must have input in policy development. MLAs and candidates were enlisted to assist in this province-wide effort. This idea was borne out of a discussion I once had with Tommy Douglas, as I drove him to Winnipeg from a speaking engagement in Brandon. I asked him what advice he could offer concerning the internal bickering which had caused the exodus of three caucus members. His words were, "Keep your Caucus members busy with public policy. There is no better garden than one well tended and it enriches their purpose and they are thus able to contribute while at the same time demonstrating to the public an Opposition Party that is prepared to listen to those whom it wishes to govern." The more I thought about his message, the more I realized how Tommy had hit the nail on the head.

In Manitoba, during the eighties, we made considerable progress in developing some innovative methods in enhancing the role of backbench members of the Legislature. Real votes were held in caucus; all caucus members including its cabinet members were treated as equals. Caucus members attended and participated in cabinet

committees and reported back. Detailed briefings of budget estimates and proposed legislation were always shared with the Caucus. Their approval was required for the legislative process flow chart. Personally, I feel we should also have ensured more rotation of Caucus members within cabinet. I believe most members can benefit from a stint in Caucus as well as in Cabinet. There may be some merit to the proposal by Belinda Stronach, for the election of Cabinet Ministers by the caucus membership. This proposal has been too easily dismissed by editorial writers. Certainly the Prime Minister should continue to designate the ministerial positions. Editorial writers complain that such a system will increase caucus factionalism. This may be partly true but it would also reasonably diminish some of the excessive power First Ministers exercise in respect to caucus matters. Perhaps, a better balance as is exercised in New Zealand and Australia could be considered.

We could have more effective use of our legislative assistants. Greater use of members should take place in various committees meeting with the public before legislation is introduced in the House. Finally, more private members resolutions and Bills should reach a vote. The House should also be given a greater role in approving major appointments.

While there are additional occasions where free votes should be encouraged, I would caution against too much enthusiasm on this score. First, if a Caucus works together as a team, there may be little need for more free votes. Unfortunately free votes may pit one member against another in a public venue and create unnecessary dissension, which is better avoided. Secondly, if there are

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too many free votes, a weak member may buckle from the pressure from powerful lobby groups, break ranks and other members are likely to point a finger at that member. I recall the threat we faced in regard to the introduction of Public Auto Insurance in 1970, and years later with compulsory seat-belt legislation for motorists, compulsory helmet legislation for motorcyclists and amendments for sexual-orientation human rights legislation. The same pressure was experienced in respect to our controversial French- Language legislation.

Much more needs to be done to fix the party system. First, we need to discourage the practice of guaranteeing nominations to incumbents or allowing party leaders to name local candidates. Second, we need to further cleanse politics of "Big money". Let us make no mistake; the old phrase, "Those who pay the piper play the tune" remains true. To its credit, the former Chrétien Government with support from the Opposition parties limited contributions from corporations, unions and individuals and also provided some public funding to political parties. Also to its credit the current Conservative government, with opposition support, is further restricting contributions by corporations and individuals. Although the legislation is still riddled with too many loopholes, it has been a major step. Unfortunately, any doubt about enforcing these provisions has been heightened by the lack of authority on the part of the Chief Electoral Officer to ensure federal parties are not breaking political financing laws.

Third, we need to deal with abuses in third party advertising to avoid the problem that besets American political campaigns. Fourth we need to level the political field between organizations that advocate on behalf of the consumers and the disadvantaged on the one hand and lobbyists working on behalf of the rich and powerful who enjoying lavish tax subsidies. Much of the recent controversies in the federal parliament tarnishing the reputations of the previous Liberal government, have related to a real or a perceived association between political contributions and the favours that were subsequently awarded.

Our government and some other provincial governments were among the first to enact conflict of interest and Freedom of Information legislation. Provisions were enacted to provide funding for constituency offices, thus enabling Members of the Legislature to do a better job of serving their constituents. Limits were imposed on what could be spent in election campaigns by political parties and public funding was provided to defray the cost of campaign expenditures. These measures were a significant step in reducing the disproportionate influence of the rich and powerful on the democratic process.

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## The Importance of Consultation

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Shortly after the 1969 election when Ed Schreyer became Premier of Manitoba, I learned a lesson which convinced me of the advantages of public consultation. As the newly appointed Minister given responsibility for the contentious auto insurance file, I chaired a feasibility committee that toured the province, receiving oral and written submissions, about whether public auto insurance would be feasible. We heard many real life experiences from the province's motorists. Although this perhaps proved to be one of the most contentious issues in Manitoba history, public input was vital to the recommendation we eventually would make to proceed with such a plan, despite the fierce hostility of the Insurance industry.

Later in the 1980s, I saw an unfortunate experience with a lack of public consultation relating to the Canada-US Free Trade Agreement. Although, the Corporate community was heavily involved in the discussions with the United States and also later in the NAFTA negotiations there was little or no input from other sectors of society. My government did arrange a series of public hearings in 1987 to obtain input about the proposed Canada-US Free Trade Agreement. These meetings were extremely well attended far beyond our expectations, and continued our tradition of seeking input from the province's communities.

Before our *Environment Act* was enacted in 1987 documents were distributed throughout the province to all potentially interested groups including municipalities, environmental groups, farming organizations, companies involved in the production and distribution of chemicals, etc. so they could study the proposed legislation and consider making comments in writing or at meetings which were being scheduled throughout the province. Indeed, the consultation was very thorough. It was an opportunity to meet and listen to Manitobans and also to convince them of the necessity to proceed with more stringent and encompassing environmental legislation. Even those who were concerned with some new aspects of the legislation because they thought it might impose a tough burden on them were very appreciative of the opportunity to express their views.

There were submissions by 400 concerned citizens, business people, environmentalists, and farmers. Also 60 written submissions were received. It was an opportunity to build trust and convince them of the practicality and the necessity of tougher measures in order to protect our environment which in the long term would result in a healthier economy for Manitoba. The consultation proved useful for all interested parties including for our

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government as proponents of the legislation. We got some very useful feedback that helped us improve the legislation. This was the type of legislation that might have given us a great deal of difficulty in the House and in Committee had we not involved a broad spectrum on Manitobans in the drafting process. It was a new era in environmental protection for Manitoba.

It was at the time the most comprehensive, far-reaching, foresight and up-to-date environmental legislation in Canada. Even today the legislation remains almost totally unchanged. Governments, both federal and provincial could learn much from this consultation process.

Consultation also means permitting Opposition members to play a more meaningful role. When I was Attorney General for Manitoba, I recall the advantage of having Opposition members play a key role in decision-making. We were able to convince some Opposition members to work with us to enact what was at that time, the nation's most progressive legislation involving the equal division of marital property on the breakdown of marriage. Some Opposition members actually voted with the government on this issue.

To proceed without sufficiently consulting affects the quality of proposals whether they are constitutional or otherwise.

### **Accountability and Transparency**

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I believe it is critical to sound an alarm bell over the tendency to believe we can deal with all the flaws in accountability and transparency by simply enacting more laws. Too often we fail to acknowledge that no law will be sufficient to prevent abuses of power by those governing. In my opinion, most human flaws in judgment can be best remedied by injecting more sensitivity and awareness in decision-making by those entrusted with positions of authority.

Government's problems frequently stem, not from its main departmental administrative responsibility, but from Crown agencies and corporations beyond direct Ministerial control. University of Manitoba political scientist Paul Thomas sums this up well:

"These are bodies that are not within the main departments of government and ministers are not directly accountable for them but they answer to the legislature for them and their reputation and the reputation of the government can suffer when things happen. As governments reduce the size of their public services and rely more and more on outside bodies both to design and deliver programs, the chain in the line of accountability lengthens and there is often a weak link in the boards of directors who do not do due diligence."<sup>1</sup>

Often a Minister's role in directing a crown corporation has been played both ways by the political Opposition and the media. That is, Ministers have been held directly responsible for anything that is wrong at a crown corporation or sometimes an agency as well, of course, as being held responsible for fixing it. Yet explicit policy direction is said to constitute political "interference," compromising the independence of Crowns or agencies in setting and following their own business plans.

Crown agencies and corporations must be mindful of not only their profit and loss statements, but also of their important role in serving community interests. For instance, the Manitoba Public Insurance Corporation, unlike the private sector, does not differentiate rates according to age or gender based on the recognition that although these factors can be measured, they are irrelevant to sound public policy. The Manitoba Hydro and the former Manitoba Telephone Systems cross-subsidize the costs of services in rural and northern areas based on the belief that all citizens, wherever they live in Manitoba, deserve an equal level of basic utility services.

However, sometimes, crown corporations regrettably establish short-term or survival goals, which frequently conflict with the longer-term social or economic goals of governments.

Some of these were costly to taxpayers. Poor management has often been the reason for failure. In particular, processes ensuring accountability of the Crown Corporation to the Minister, to the cabinet, to the Legislature, and to the public were not robust. Too often policy decisions reflected the vision of public administrators instead of politicians and occasionally politicians avoided the responsibility, which was clearly theirs to assume. Examples are not difficult to list and would encompass four administrations.

Public perceptions persisted that crown corporations were "out of control". Ministers were blamed despite potentially exonerating circumstances. The boards of directors failed to understand their proper role, tending to focus more on operations and less on strategic and public policy issues; perhaps their role was not clearly set out for directors in their mandate. Sometimes corporations like the MPIC and the MTS did not sufficiently foresee problems or use suitable crisis management techniques to limit damage. Regrettably we failed earlier in our term to enact reforms in the crown corporations, which would have tightened up accountability, and headed off some of the difficulties we later encountered during our last two years in office.

By 1986, my administration had been convinced that better processes were essential to keep crown corpora-

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tions accountable. The government, and the electorate, required maximum accountability.

Considering all the factors involved in accountability, control, corporate autonomy and performance, the Government in 1987, enacted legislation known as "The Crown Corporation Accountability Act, 1987". Unfortunately, much of this legislation was later gutted. This structure was designed to precisely define the responsibilities of all of those engaged in the process. An early warning system was required to alert those at the political level of any planned corporate actions. Political accountability meant the public had the right to know, and the government had a duty to disclose intentions, successes, and failures.

Transparency is also essential with rate approvals. For instance, hostile reaction to the auto insurance rates announced by my Government in December of 1987 and the resulting lack of confidence by the public in their fairness or necessity, it is unfortunate we had not established an independent review of Auto Insurance Rates. After our term, the Conservative Government, learning from our experience, required all rate increases to be approved by the Public Utilities Board. More transparency was essential.

Another area where transparency is essential is when there are serious allegations of misconduct on the part of Ministers. I am proud of the record demonstrated by my ministers during our time in government but there were a few examples where disclosure and resignation were the best policy.

One such occurrence involved one of my Ministers in 1987 where there had been a minor car accident and the Minister had been drinking. He telephoned me with the news early the following morning. I advised him it was "a no-win situation but you have the opportunity to come out of this looking very honest. Call a news conference before the media get wind of this and announce your resignation". It was a sad moment because he had been gaining momentum as an able and well respected cabinet minister. Unlike others, however, he had not tried to dodge or runaway from the incident. The public response subsequent to his announcement was supportive. He plead guilty, paid his fine, attended a treatment centre and he voluntarily extended, from one to five years, his driving suspension term. After a reasonable period, he was reappointed to Cabinet and became an increasingly respected Minister.

Another instance occurred shortly after our re election in 1986. The Winnipeg media would level a serious accusation in their endeavours to damage a senior and well-respected Minister and our government. The newspaper's headlines screamed that the Minister's "partner

gets hydro contract". Over the Victoria Day weekend the paper ran six stories detailing the minister's business investments in an office building in the downtown core area. The allegations were that as Minister he had awarded a consulting contract to a consultant and a tenant in his building. The Opposition had joined in, and not surprisingly parroted demands for the minister's resignation. On the Sunday the Minister and I discussed the crisis created by this vendetta. Reports had reached us earlier about an editor saying in a half joking fashion, assigning a reporter to the legislature, that he expected a cabinet Minister's resignation by Christmas. Although, confident that there was no conflict of interest we had to sweep aside any perception of one.

We agreed in the telephone conversation that the best approach was for the Minister to announce his resignation from cabinet and then for me to announce the establishment of a judicial inquiry by former Chief Justice Samuel Freedman. Freedman was a jurist widely respected in all sectors of the Manitoba community. Justice Freedman would finish his inquiry in July and would entirely exonerate the Minister. Freedman fired some scathing comments at the *Winnipeg Free Press*. For the newspaper to portray Minister and tenant as partners without any qualifications was "to make a mockery out of the language". Freedman concluded that not only was the Minister innocent of the alleged conflict of interest but there was not any case to be made against him. The paper's investigative team failed to speak to any of the tenants directly and if they had they would have discovered that the tenants with the largest contracts had moved into the building before the NDP had been elected and prior to the Minister becoming an investor in the building. Indeed it would have been revealed that some of the principal tenants had Conservative connections and they had received government contracts during the Conservative term in power. Justice Freedman summed it up best when he asserted, "there has been a lot of reaching done here all the way into left field."

After the Freedman Report the newspaper acknowledged that it had messed up unrelated facts to give them an ominous look. Unfortunately this admission was late in coming, already the Minister had been publicly besmirched and the editorial writers only spoke out when he was already exonerated; it was ancient history. When this highly competent Minister returned to cabinet, all welcomed him with wide-open arms and he successfully continued his work for us on health and energy related matters.

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## Federal-Provincial Relations

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You cannot spend a decade as Premier without learning a few lessons about federal-provincial relations. In my view, every effort must be exhausted to promote mechanisms for federal-provincial cooperation where greater co-ordination and efficiency by governments is essential to combat the deepening problems, currently confronting Canadians. Unilateral changes as we have seen in federal-provincial arrangements like equalization and other cost sharing programs must be prevented in the future. All governments working together is essential to reverse the worsening trends apparent in the list of critical issues facing Canada today. The post-war era witnessed a high level of such co-operation. Partisan and jurisdictional bickering between the levels of government can no longer be tolerated or afforded in this new millennium.

In the past, there were serious mistakes made in constitutional negotiations. Retrospectively, the process pursued in Meech Lake failed to engage the public in the debate. More than governments must be involved in constitutional discussions. As Allan Cairn's points out, "the elites of the groups with *Charter* recognition have stakes in the constitution. They have left the audience and are now on the playing field, as are the aboriginal peoples for whom the constitution is a potential lever to a less marginalized future."<sup>2</sup>

It is not only governments that now have a stake in the constitutional process. The public must be more actively consulted than they were in the past. A different process in the patriation of the constitution in 1982 and subsequently with Meech Lake negotiations [1987-1990] could have contributed to greater Canadian unity rather than less as, we have seen since. In 1981, Hugh Winsor was correct in asserting that there was distrust among Canadians about whether First Ministers speak for them when it comes to constitution-making; today that remains the case.<sup>3</sup>

Several errors were made in the Meech Lake process including the following:

- As Premiers, we should have arisen above the disappointments and bitterness resulting from the Aboriginal Constitutional Conferences in the 1980s. The Aboriginal Self-Government issue should have been included in the Meech Lake talks.
- Before agreeing to the Accord, as Premiers we should have persisted in eliciting details of the process that the federal government would use to obtain public input. The path traveled was wholly inadequate and eventually self-destructive. Clearly, regardless of the reasons given for it, the process should have been more open and hearings should have taken place nationally and been readily available to all who were interested in

making submissions as occurred in Manitoba. As Premiers, we should have refused the 18 hours continuous negotiations session at the Langevin Building. Not only was it the wrong process but it was also seen as "eleven men in suits" assuming too much responsibility at the price of the democratic process.

- It was an error to proceed on the basis that no changes could be undertaken unless the mistakes were egregious in nature. This sentiment prevailed at the 1987 Premier's meeting in St. John's when Premiers Ghiz, Peterson and I, without success, sought agreement from fellow Premiers about possible clarification of the wording in the Accord in respect to protection of equality rights in the *Charter*. Unfortunately, this same hard line position was taken later when it was declared that additional negotiations were unacceptable.
- Imposing a time period was wrong. Alternatively, the effort to resolve the impasse should not have been awaiting final resolution when only a few weeks remained in the three-year constitutional requirement. As was discovered later with the Charlottetown Accord it is unwise to give or appear to be giving time ultimatums in respect to the completion time.

On the Manitoba front, in the 1980s, another issue stands out – my government's delay in acquiescing to public hearings on the contentious French language controversy was a miscalculation on our part. It was seen as the act of an arrogant government, not concerned about public input. It was further highlighted by what appeared to be our government's willingness to ignore public opinion as it was being expressed in various civic plebiscites held at the time.

The involvement of the federal government on this issue, including its passage of two resolutions unanimously in the House of Commons, was counterproductive. It created negative rather than positive reaction throughout the province. Their actions were incorrectly seen as Québec inspired and they, at the best had a neutral effect and at the worst a quite damaging effect on our efforts to resolve this matter within the Manitoba political process. Mulroney and Trudeau were seen as two federal politicians pursuing a Québec agenda and as such, this was the equivalent of swallowing a poison pill in Manitoba and throughout western Canada. There are valuable lessons that can be learned from our errors in pursuing constitutional changes. These can be avoided next time and let me add eventually another effort will be necessary, sooner or later.

Another serious debacle occurred with the CF-18 affair. In 1986, Westerners were angered when a Winnipeg firm submitted a better and cheaper bid than a Montreal firm on the CF-18 contract. Special considerations were invoked to locate the work in Central Canada. Unfair favouritism by government for any region in Canada will cause severe conflict in other regions and result in dire

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political consequences. This issue would trigger the birth of the Western Reform Party resulting in a few years in the complete annihilation of the western Tories. The lack of transparency in the decision-making of the CF-18 contract had a major impact on public confidence in the decision-making process.

### Democratic Reform

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There are many other issues that deserve our attention. A reduction in the power of the Prime Minister and the Office of the Prime Minister is essential; the first Minister's power in Canada is perhaps unequalled in any other developed democratic nation today. Canadian Prime Ministers make all the major appointments including the Governor-General, members of the Senate, Supreme Court and those appointed to major Boards and Commissions. The same concern applies to provincial legislatures. As a result the media tend to be fixated on the leaders. They decide which leaders receive their attention. The media focus on the party leader is explained by the personal power of the Prime Minister. But let me conclude with some thoughts on democratic reform.

Real democratic reform of our political institutions will probably require constitutional change and that is a problem in Canada. Nevertheless I want to point out a couple of areas where I think change is badly needed.

First I think Canada must join the vast majority of democracies, which today operate with some form of proportional representation or a transferable ballot. As we have witnessed in the last election, our current system rewards those parties, which adopt regional rather than national identities. The governing Liberals have traditionally enjoyed little and sometimes non-existent representation in the western caucus. The Conservatives are usually under-represented in Québec. The NDP historically enjoys a higher national vote than it receives in its eventual representation in the House of Commons. Only running in Québec, the Bloc Québécois is over represented. The first past the post plurality electoral system has contributed to both regionalized parliament and parties. To be successful, parties exercise a regionally focused appeal to identify and target prospective supporters in their geographic strongholds. The first past the post take all system contributes to this alienation.

Canada may be compelled if they are to reduce regional tension, look seriously at some institutional changes. Some form of mixed proportional representation system as occurred in New Zealand in 1990, deserves careful examination. Proportional representation would be much more likely to ensure greater regional participation and would result in the additional representation of minorities that are now underrepresented in

our institutions of government. Fewer Canadians would likely respond as they do today with the remark at election time: "I am not voting because my vote doesn't count". Although the chances for proportional representation are perhaps only marginally better than that for a reformed Senate. Another alternative to proportional representation would be a system of preferential voting where second and third choice preferences as indicated on the ballot would be counted in eventually computing the choice of the electorate. No longer would anyone be elected with sometimes far less than 50% of the total votes cast.

A future minority government might yet refer this issue to the public to vote in a referendum as happened in New Zealand. Regrettably, the mainline parties are likely to hesitate about such a change. Only a referendum can compel institutional reform. Some provinces are beginning to show leadership on this issue. In the final analysis, at both the federal and provincial levels, it is the public that must decide.

Second we must address the issue of the Senate. When it comes to the Upper Chamber, my personal preference is for abolition. All the provinces have long since abolished their upper chambers. None would argue that they made a mistake. The support of the federal Progressive Conservative Government by the fellow Conservative Premiers of Alberta and Saskatchewan in the CF-8 affair convinced me that a Senate would be ineffective in protecting the interests of the region. They would also likely line up behind their governing party. Senate reform, rather than abolition, will be difficult but not impossible. What are some of the hurdles to overcome before Senate reform can take place?

The equality of Senators from each province is a non-starter; however, a representation formula based on equity may have the potential to succeed. Generous concessions to Québec and Ontario to offset equal provincial Senate representation are bound to generate a fatal reaction in the West.

Any proposed powers awarded to a Senate must relate to the exercise of responsible government in a representative democracy. The current powers of the Senate would likely have to be reshaped so it would not have the right to deny the majority will in the House of Commons but would ensure regional issues and concerns are given a full hearing.

The selection of Senators by any other method than by direct elections, such as the option of choosing delegates by provincial governments, is guaranteed to damage the credibility of any future second chamber.

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Direct elections for Senators by proportional or transferable elections may be a saleable and innovative alternative to the first past the post method.

The Chamber should have the power to review important appointments that are now made by the Prime Minister, to ensure the selection process is fair in its treatment of regional concerns. It must have the right to review changes to crucial federal programs, which would have any impact on the regions such as equalization.

In a letter to his wife, George Brown, one of the Fathers of Confederation wrote, "We were very near broken up on the question of the distribution of members in the Upper Chamber of the Federal Legislature –but fortunately we have this morning got the matter amicably compromised after a loss of three days discussing it". Co-operation was the answer for our Fathers of Confederation. Co-operation is also essential to day.

### **Conclusion**

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Canadians must be prepared to demonstrate the same foresight, courage and vision as that displayed by their Fathers of Confederation. Responding to the political, economic and social imperatives of their time they created the federal state called Canada. One hundred and

forty years later, similar vision and courage are essential to successfully meet the new economic and social challenges. Improving the functioning of our parliamentary institutions will not be easy. Sir Wilfred Laurier was right when he declared: "My object is to consolidate Confederation, and to bring our people, long estranged from each other, gradually to become a nation. We must rise to the challenge of Laurier and bring about changes that will breathe oxygen into our parliamentary and democratic system. I am still optimistic that we can, one day, build both the just society, envisioned by the late Prime Minister Trudeau and the brave new world envisioned by my political mentor Tommy Douglas.

### **Notes**

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1. Paul Thomas, quoted in Francis Russell, *Winnipeg Free Press*, "It's the Roads Stupid" July 8, 2006.
2. Alan C. Cairns editor Douglas E. Williams, "Disruptions: Constitutional Struggles, from the Charter to Meech Lake." McClelland & Stewart Inc, 1991 at page 261
3. Hugh Winsor, "A pall on a style of politics". *The Globe and Mail*, November 19, 1981.