

Interview with Kelvin Goertzen[†]

K E L V I N G O E R T Z E N *

BPS: In my view, the last session was the most interesting from a legislative process in over a decade.

KG: Mine too, and I've been there for a decade.

BPS: It's the first time I have seen since the bell ringing crisis where the Opposition significantly alter the train going down the track in terms of the government passing its legislation.

KG: I think it was the longest spring session in the history of the Manitoba Legislature.

BPS: Quite remarkable. It raises the question, it is something that we've noticed with *Underneath the Golden Boy* the fact that what goes on inside the Legislature often does not resonate outside the Legislature. So you put a tremendous amount of energy into putting together speeches, coming up with the hard questions, coming up with a snappy response. There was a time when 15 to 20 reporters covering the Legislature. Now you have barely any. Is that something you feel frustration about?

KG: I do in the sense that what happens at the Legislature is really important, not just from the financial perspective although there is a lot of money that gets spent in terms of bills and the budget, but it is important from a democratic perspective. Every bill passed has some impact on somebody, and often people don't hear about these pieces of

[†] This interview was conducted by Bryan P. Schwartz and Jessica Davenport in July 2014.

* B.Comm, LL.B. In 2003, Kelvin became the youngest MLA ever elected in the Steinbach Constituency. Since then Kelvin has served as Health Critic and Education Critic. He is currently Justice Critic, Opposition House leader for the Progressive Conservatives.

legislation until they are already passed and in effect and someone is enforcing it upon them. People ask “Where did this come from?” and they learn that it was passed a year or two ago and they had no input. So I think it affects people’s lives when they don’t have that sort of ability to hear about what’s going on with the bills and the money that’s being spent.

That is partly just where the media industry is at. I’m not blaming the media entirely because it’s not always a lack of interest but in many cases a lack of resources. The nature of the media has changed over the last ten to fifteen years; they are competing with social media and other forms of citizen journalism. In response to that, they also have to do things more quickly and things that are more appealing to the public. Some of that responsibility is also on us as politicians. It is a partisan environment and to the outside eye seems quite combative. Often people think things are not getting done so they tune out. There are a few things at play, there is the economic reality of the media, there is the reality of what’s going on in the social media realm, then there is the reality that politics and politicians do not always do themselves any favours in how things go in the Legislature.

BPS: There is sort of a popular wisdom that in the Information Age you do not need intermediaries like newspapers because you can have your social media page. My sense is the flaw in that analysis is so can everyone else. Almost limitless number of messages is virtually the same as no messages at all. If you don’t have a point of concentration, a common forum, then you can do your best to get your message out but you may not get much purchase. Do you have any sense of that?

KG: Well there are some stories that cannot be told in 140 characters or in a Facebook post. There are just some stories that cannot be told in that short a period. What some newspapers and magazines are moving towards, and they should be moving towards in my opinion, is telling more in depth stories. There is a growing appetite for people to want to hear more about issues beyond the Twitter feeds and where do you get that? In some sense, it is counterintuitive to what is happening in the social media area. But there is a growing appetite for people to find more information, more in depth than the quick sound bites you get off social media.

There is a place for it though; to get stories out quick. Even as a politician for me, Facebook is a great way to get a message out. Not necessary a political message, just that we are real people and not necessarily figure heads. It allows you to speak in human terms about real human issues. It shows people you have a family as they do; that you have challenges in that family like they do. It allows you to connect in a more personal way. Social media as a politician is more helpful if you use it to break down some of the barriers that people naturally have when they think about politicians. But from a media perspective, there is an opportunity as some people look for in-depth analysis of certain issues and there is a place for that in the media. But that takes a bit of risk too because that takes some copy space which means you need more advertising for that copy space and you need to dedicate time for your reporters to do that kind of work.

BPS: Any thoughts looking back on your law school career on how it prepared you for life as a political life?

KG: No question. I always tell young people who are interested in getting involved in politics to consider Law. The first thing they say is they will get a political science degree. I'm not trying to discourage people from getting a political science degree but if you are actually interested in the practice of politics whether that's as a staffer or an elected official, law school is tremendous in my opinion. It teaches you all the fundamentals, how to analyze legislation which is very helpful and gives you skills within the caucus; it teaches you to speak quickly, sometimes succinctly sometimes not, on the fly; it teaches you to be able to argue ideas without becoming personal. That is very helpful with negotiations between parties and as House Leaders. Andrew Swan and I have a unique relationship as both House Leaders and Minister-Critic where during Question Period we are throwing arrows at each other politically and a few minutes later we have to sit down and negotiate how the House is going to run for the rest of the afternoon. You cannot do that unless you can separate the political debate from the necessity to negotiate and get things done. There are many negotiations on an hour-to-hour basis. You ultimately have to have those discussions and the trust to do that. I think legal training allows you to be able to analyze legislation, be able to communicate effectively, and in a way that is not personal.

BPS: For being a House Leader is it particularly useful, in the sense that you are used to rules of procedure and evidence, civil procedure?

KG: It is. Not only because you are used to it but also because you probably have an interest in it. Many people who are elected want to better their communities, have some sort of impact on the province, and have their own personal interests they come in with. Very few come in with an interest in the procedures of the House but lawyers are more predisposed to that sort of thing. The ability to sit down and read archaic books like Beauchesne¹ or the more recent *House of Commons Rules and Practices*² and not only understand it but enjoy doing it is a fairly unique thing. There are not very many people who like it but it is an important skill because it is how the House functions. It is based somewhat in tradition and somewhat in practice. For sure it's helped me as House Leader. Looking back at the House Leaders in our caucus the majority will have been lawyers or have a background in the law. I suspect it would be similar for the NDP. It's not mandatory, but it's helpful.

BPS: The government has done things that you and some other folks in the public have found to be remarkable, the PST legislation. And now you have made the political choice that you are going to draw attention to it. Did you have some sort of old pro, someone to guide you through mounting a campaign in the Legislative Assembly?

KG: No, but we were preparing to slow things down in the House prior to the introduction of the PST because the House was only being called back in mid-April. There has been a slow erosion under the current government where they have been calling the Legislature back later and later. Historically we would have gone back in early March and in 2013 they recalled the House in mid-April, which we thought was too late. The problem is we have an end date of the Legislature of the second Thursday of June. This means if the House is recalled in mid-April, we only have

¹ Arthur Beauchesne, *Parliamentary Rules and Forms of the House of Commons of Canada*, 6th ed (Toronto: Canada Law Book Co, 1989).

² Audrey O'Brien & Marc Bosc, eds, *House of Commons Procedure and Practice*, 2nd ed (Ottawa: House of Commons & Yvon Blais, 2009).

two months to deal with many important things. Now two weeks of those two months are spent with the budget debate, then we have procedural things like condolence motions where we recognize former members of the Legislature who had passed away; you have Opposition Days that take up three days of the session. So all of a sudden you are left with about a month to deal with legislation, whatever that legislation is. Long before the PST increase was introduced, we came to the belief that we would have to sit at least two to three weeks longer to allow people, whatever the legislation was going to be, to have some understanding of what it was. And we wanted to make a point that the Legislature just was not sitting long enough under the NDP government. I've never advocated that the Legislature sit every day of the year but we were reaching the point where it was sitting considerably less than 90 days a year sometimes. It just was not an adequate amount of time to deal with the things you need to deal with in the Legislature.

So before the PST was increased in the budget, we were already doing some analysis of what we could do to make the Legislature sit a little longer so the bills could be examined and discussed more adequately. That obviously became a very high priority when the PST was announced in the budget. That caught all of us by surprise. But no there wasn't a procedural guru, I did not climb a mountain somewhere and seek out some 95 year old wise person for procedural advice. We just read the rulebooks. But we did make a decision early on that how we were going to extend the Session was going to be different from what had been attempted in the past. The reliance in the past had been on bell ringing where you raise procedural issues whether it is a point of order or point of privilege then you challenge the Speaker's ruling, letting the bells ring for an hour and you do that over and over again. There are a few challenges with that. One you get the Speaker pretty irritated. We have a very good Speaker, Daryl Reid, who we support in Manitoba. We did not want to unnecessarily irritate the Speaker even though he understands what is going on; when you continually challenge his rulings, it gets the Speaker a little upset.

Secondly, in the past when that bell ringing has happened the media typically view that pretty dimly, especially when there are hours and hours of bell ringing. It does not feel like there is much actually happening, that the members are not really doing their job. We wanted to stay away from that. We did do some bell ringing but the Clerks would probably say that

we proportionally did much less. Instead we relied more on speaking which the public generally views as part of our job. We went through the rulebooks looking for where there are opportunities to speak on legislation, as well as how long each person could speak. We used things that had not been used before, like unlimited speaking time where the Leader of a party can designate their unlimited speaking time to someone in their Caucus. I got that pleasure sometimes and I would speak for two to three days on pieces of legislation, not always on the PST. To extend the session you need to be prepared to speak to all the bills. We relied greatly on our caucus. I give our entire caucus tremendous credit because they all had to speak to all bills and that takes a lot of preparation. Typically, the critic is the one who takes the lead on the bills, but we were having all of our members speak to all of the bills. It really was a caucus effort and obviously, something our leader supported as well. So we tried to rely more on speaking and less on bell ringing. This took some of the pressure off of the Speaker and also ensured that the public understood we were doing more than just ringing the bells over and over.

BPS: You were the designated speaker on the PST bill, you were on your feet for 16-17 hours. I think our readers would be interested in the sheer technique of how a person speaks for that period of time. Did you have a game plan?

KG: There are some skills I have that are probably not transferable to any other position in life other than the one I have. Speaking for long periods may be one of them. Speaking has always come naturally to me. It was fairly easy for me. I just took broad categories. Because the PST is so wide open, you could take categories and speak about how it would impact tourism for example, the economy obviously, small businesses. Because there are thousands of things the PST applies to we had our staff print off that list and I could have spoken to each one and how the increase would impact people buying those things. I did not have to get to that level of detail. It really was not as hard as people think.

The hard part is that you are standing there for five or six hours at a time. Jokingly, the members of the government kept sending over glasses of water, hoping I would have to leave the House at some point. So they had their own sort of strategic initiatives. It does have an impact on your voice; I had a lot of cough drops around because you are just speaking so

much. For me there was more of a physical reality to doing it than an ability to speak to the issue. I suppose if I had to speak hours and hours on a bill that was changing the name of a provincial park, for example, that would be more difficult because the topic is more narrow. But with the PST there were just so many issues to explore.

BPS: In terms of water, to explore delicately that, you can have a member of your caucus ask for a quorum buying yourself a minute or two.

KG: There were things I did research in terms of how we would do that if I had to leave the House for a few minutes unexpectedly. Worse come to worst I could have called for a quorum count, which would have caused the bells to ring for a minute calling all members to the House. Then an actual count would take place. So long as I was back in my seat by the time the count was completed, likely two to three minutes I think would have been ok. Fortunately, I never had to use that but you need to think of every possible scenario when you are doing something like this because you have undertaken a strategy and you want the strategy to work. It would have been somewhat embarrassing to have the whole thing fall apart because I had to leave the House at the wrong time.

BPS: Did you have these moments where you hear yourself talking and it was just a sort of disembodied third person standing there? Passive standby while autopilot is talking?

KG: It does become a bit surreal at times because there are not a lot of people in the House who are really listening on either side frankly. You are really speaking, not necessarily to yourself, although it feels like that at times. The Speaker is trying to listen the best he can but I'm sure it tested his patience too. Sure, at times you think "what exactly am I doing, I've been speaking to this for the third or fourth hour, is this something worth doing?" The good thing is we knew it was the right thing to do for a number of reasons. We needed to ensure that the public had an opportunity to digest the issue of the PST increase; we needed to ensure that the government paid a price in some way for breaking their promise and raising the PST; we needed to show Manitobans that we would stand up for them. So all of the caucus spoke at different times, I know my filibuster got more attention, but everyone spoke at different times for

long periods and it was for those reasons. It was very much a team effort by the PC Caucus. But in the moment when you are at your third or fourth hour of speaking and it doesn't seem like anyone is listening, yes you can sometimes question yourself. But when we stepped back outside the Legislature, we knew we had many people supporting us. It was important to them, the media was covering it, and we did get a lot of encouragement from Manitobans so that helped keep us energized.

BPS: I was going to ask about that, we started earlier discussing the difficulties in getting resonance. It sounds like from what you are saying is that you did succeed in raising consciousness of the issues.

KG: Absolutely and there is a difference between getting media and getting media that people remember. Because this was so unique, and because it had not happened in most people's memory, it stuck in their minds, "Legislature's sitting through the summer and into September?" It was something that caught people's attention. People were wondering how long it would last. I was wondering too, we did not have a set end date. It did generate a lot of discussion; it was memorable for people. Often politicians are seen cutting ribbons and that sort of thing, but people often do not remember that because it seems common to what politicians do. But this was uncommon, unusual; we got lots of feedback from it as a result.

BPS: What is the natural check and balance on an opposition party? One view is that ultimately, the government has a right to govern, they have the elected majority. There is some question about the legitimacy about infinite obstruction. On the other hand, procedurally if you really want to put spanners in the works you can indefinitely. The government does not have the levels in the works to completely shut down a determined opposition. Suppose you are government and you are facing an opposition that wants to prolong the session indefinitely can you in fact effectively close debate?

KG: I will not hypothesize about if we were government because I would hope that we would not put ourselves in that position of breaking an election promise. But certainly, the NDP had the option if they wanted to bring in a closure motion and that would have limited debate and moved

the bill much more quickly. I was always looking at the Order Paper every day wondering if they would bring forward closure and always preparing for that. Ultimately, they chose not to and they would have to explain why they decided not to. There is obviously a political risk in that. I think also that in the early stages of the summer, they did not believe that we were committed to go through the summer and may not have believed it until we got into July. Then I think they realized we had the will and the strategy to go through the summer. But I was always looking for a motion of closure.

Could we have gone on indefinitely? Probably not. We probably could have gone on until Christmas. But there is a balance. We were always aware of that; the government has a mandate to govern but the Opposition does have a mandate to be a vigorous opposition and to express dissatisfaction on behalf of people when they are dissatisfied with something the government has done. We could not have done this on an issue that was fairly insignificant to the public. The Opposition does lead the public opinion in some ways but they have to mirror the public opinion as well. There haven't been many issues in the last ten years that have galvanized the public as strongly as the PST increase. We had people encouraging us to continue. Had it been an increase of 5 cents on the cost of propane, I suspect that most people in July would have said shut it down already, that it is not a big enough issue. But we were getting encouragement because it was mirroring Manitobans feelings on the PST increase and the fact they were not told the truth in the election campaign. But ultimately, I do not think the NDP government felt early on that we were going to go through the summer and that probably impacted their decision making on a closure motion.

BPS: Let us just talk about public participation on PST. One view of parliamentary affairs is government governs then every four years they are held accountable, and direct democracy is not a part of our system. On the other hand, there is a political market failure problem in running up deficits and debts. That problem is unless the government is externally constrained the temptation is to sacrifice the future to the present and you are rewarded for spending big. There is a principled case for the constitutional limitations of a government to raise taxes. As a general matter leaving aside the PST debate, what are your views on the direct democracy issue?

KG: We obviously support balanced budget legislation. Remember that by the time it came to repealing the balance budget legislation was as much NDP law as much as our law as they had changed it five or six times. Mr. Doer of course famously ran on keeping it in 1999 then amended it a number of times. But by the time they repealed the referendum requirement it was essentially their legislation. They were not following their own law. One can get into the question of what kind of issues should there be referendums on, but at the end of the day they supported that legislation, and chose not to follow it. This was as much about how could the government get away with breaking an election promise. I know the public would argue that happens all the time but this was fairly significant and fairly direct and how can they get away with not following their own law. There had to be some political consequences, whether there are legal consequences we do not know yet and the court will ultimately decide that, but there had to be political consequences. There needed to be something to say to people that there are members in the Legislature who will stand up for your right for the legislation to be followed. If there is no pushback when a government decides to break its own legislation that it had supported in the past, when would there be pushback? It's the precedent, not the legal precedent that will be determined, but the political precedent we were concerned with. As a political precedent it was very bad to have a government not adhere to its own law. Our statement on it going through the summer was as much about their having to be political pushback and an understanding that there are people in the Legislature who feel the government should follow the laws that are in place.

BPS: What is your idea on how long political memory is? One calculation could be everyone gets into power, makes the unpleasant, unpopular decisions early, memory fades, and come election time they can be the nice guys. Any views on that?

KG: Yes, I've seen situations where the public's memory on political issues seems short. I think it also depends how deeply it affects them. I'm not suggesting people purposefully forget or wilfully put it out of their minds but often things do not impact them as deeply. I think the PST is going to be different in that it was an overt promise on a significant thing, on something that is very visible. It is not something that visibly goes

away, every time someone purchases something they are reminded, to the extent that they look at their receipt, that there is a cost to the NDP breaking their promise. That cost is very direct to them. Often governments are able to raise revenue in ways that are a lot less visible to the public, whether that's fees or even the expansion of the PST which occurred before the raising of the PST. The expansion of the PST on home insurance had a significant impact on people in Manitoba. But it is hard to associate where that cost is coming from, maybe your premiums go up, maybe you've had a claim. It can be hard to be sure why the cost went up unless someone points out "That's because there is PST on there that was not there before". The PST because it is so obvious and so present on everything I think will have a more lasting political memory than other things do. But we will find out. But that was part of sitting through the summer. We wanted to ensure people were aware of what was happening. There were times in July, even after the PST had gone up, that we heard from people who didn't realize there was an increase.. We wanted to make sure that people would remember. Of course, ultimately, people vote on many different issues and I don't know the result of the next election. People will factor in a lot of different things that they vote on, but I do think the PST will be one of them.

BPS: The strategy of the Progressive Conservatives this time seems to have been that they would commit to the legislative process as their political strategy.

KG: Coming out of the last session, there was a couple of break points. During the filibuster on the PST our main point was before we got to committee we wanted a procedure where the 250 people who had signed up to present at the public committee after Second Reading would not be under the committee system as it currently exists. The way it exists now, for the first two days the committee will only sit until midnight. After that it's wide open, it is the wild wild west; the committee can sit through the night and I have seen that happen a few times. It is a terrible process. By the third night you have 150 people yet to be called, they do not know if they will present that night, or if the committee will sit through the night. And I have seen this government push committee hearings through the night. Suddenly you have people presenting at 3-4 in the morning. The strategy there is obvious, to try to run it through the night and get people

to leave. On the filibuster, we ultimately let the bill go to committee once Jennifer Howard and the NDP agreed to give us a committee process that would allow people to be scheduled. They would be told which night they were going present. We had eight or nine nights, we were able to say this is your night and you are guaranteed to present that evening and it won't be after midnight. That is what we were able to negotiate. We got cooperation on that. And that is the system that I believe should be permanently placed in our rules.

BPS: It is a theme of *Underneath the Golden Boy* since we have started, we have observed that while there are hearings only one or two people will show up because they have only one or two days to prepare. So in theory and to some extent in practice, we have an exceptionally democratic system but the pragmatics of knowing that your bill is coming up and showing up is a real criticism.

KG: So that agreement allowed the Bill 20 and Bill 18 hearings to operate in a civil manner. In September, the agreement that ended the session included a sessional agreement that would cover the spring 2014 session. Part of that agreement was that the House would open no later than March 6th and would rise no later than June 20th. So that went back to our point from last year that the House should be sitting early in March until June to give legislators and the public a legitimate shot at understanding the legislation before them. So what we were under this session was an agreement that came out of the struggle over the PST. That is what we achieved through negotiation. All bills that were introduced by May 1st were guaranteed to come to a vote by June 20th this year. That was the balance: the government has to get their legislation in fairly early so people can see it and we have a longer legislative session – there is more democracy involved there. That is how, in our view, things should run more consistently, but that is a direct result of the negotiation from last year during the PST session.

BPS: It is a complaint throughout the Canadian parliamentary system, that elected members of legislatures would rather spend their time in their constituencies, meeting people, doing the ombudsman's function, rather than spending time in the deliberative chamber because that is not being covered by or helping with the reelection process. Maybe is the

disconnect less here because it is not a question of outside game/inside game because the fact that there is public hearings means if you are doing significant things in the Legislature you can connect with who are actually coming to present.

KG: I would also imagine that it varies depending on where you live. Most of us live within an hour's drive of the Legislature. If you are in Brandon or the North it is harder. Obviously, in Parliament, unless you represent the City of Ottawa, you have a significant distance to travel. The pressure to be home is probably more in Parliament or in provinces that are really large in terms of their number of constituencies and their distance from the Legislature. I'm sure that for the ten or so members that represent ridings that are significant distances from the Legislature in Manitoba, those pressures are greater than for the rest of us. Because if I need to, I can get home every day. I do not, there are many times when I will stay in Winnipeg overnight, but if there is an important meeting or an important family matter, I can get home. That is not the case for everyone in Manitoba or in other jurisdictions. Geography plays a large part of it.

BPS: Manitoba is unique, no other province is so dominated by one metropolitan.

KG: That probably does make a difference. But even with that, the government has been sitting less and less and pushing that start date back. Rebooting it so we start in early March as we did this year will hopefully set a precedent. But we do not have a sessional agreement for next session, so I'm not sure what will happen.

BPS: Let's explore the accountability problem. Generally, we tie Question Period and the processing of legislation meaning if the government is not interested in processing legislation they can go away and not face Question Period. This is starting to change in Manitoba it was the tradition that we would not have committees operating when the Legislature was not in session. You can do that now by agreement. To me it would be imaginable that you could hold Question Period periodically when the Legislature is not in session. It seems to be an anomaly in the

system that if you are not in session to process legislation the government can basically disappear for three months and not face the hard questions from the elected opposition.

KG: I'm not sure in the Westminster model that exists as an option because Question Period is a part of the routine proceedings. Now many of the questions that we have during Question Period have nothing to do with legislation. There are the issues of the day that surround the government that are not found in proposed legislation. It can be a crisis in the emergency room that has nothing to do with legislation but is the topic of the day. In theory, that could happen. I do think that there is enough work to do though to keep it as part of the regular session if we have the proper balance on the number of sitting days.

If you look at Parliament, they have a sitting schedule of six months of the year and it is known two years in advance. That is what we'd like to get to in terms of predictability. Mr. Swan and I are supposed to have meetings in August to move the ball in that direction. To try to get a parliamentary schedule that ensures there is time to do things outside the Legislature including preparing legislation, meet with people and do the things that we do as MLAs outside the Legislature but also that there is a good amount of time inside the Legislature to ensure that there is accountability. Manitoba is a bit behind because we do not have that sessional calendar, which we should. It causes many problems and it was part of the reason we went through the summer last year.

BPS: Just a question about well-organized calendars, this was a major issue during the MTS debate. The Opposition had agreed with Government on a schedule, and then the Opposition found the MTS bill to be offensive and no longer wanted trains to run according to that schedule. Then you have a debate over whether there was a breach of rules because you got the *quid* which was legislation introduced in spring would be voted on in the fall or the other view was that this as extraordinary circumstances.

KG: One of the things we have talked about publicly, not just with government, is a schedule that calls for the House to sit from March to the middle of June. Bills that are introduced before a certain date would come to a vote in June but the opposition could select up to three bills, for example, that would be held over until the fall session. That could

meet that balance where if all of a sudden a particularly controversial bill was introduced it would not come to a vote until the fall. That would give opposition nine months to debate which is a good amount of time to make your point..

BPS: That seems like an intelligent idea.

KG: Surprised it came from me?! But that is kind of what we came to an agreement on at the end of the 2013 session. That agreement can be a model for where we go. This 2014 spring session was March to June, you had to have bills in by May 1, and we did not have the selection of bills you could hold over. But that can be put in there. Essentially what we did last year, we did hold the PST bill over to December.

BPS: Was that in your deal for this past session?

KG: No, but what we did when we adjourned the House in September 2013, we ended up voting on about half of the bills, holding over the budget implementation bill, the PST bill and a few others until December. That can be a model. To me that strikes the right balance. The government has a right to govern and they have the right to have their legislation voted on but the opposition has to be able to make a point on things that are important to the public.

Part of the challenge in Manitoba is it is too much of a zero-sum game. The Progressive Conservatives and the NDP are seen as most likely to govern in the recent elections. My friends in the Liberal Party may take objection to that analysis, and perhaps things will change, but that has been the environment the past two decades. That creates the feeling that if one side proposes something it must harm the other side. That is not always the case. I think there are things that could be beneficial to the system as a whole and not necessarily designed to benefit the government and hurt the opposition or vice-versa. But because you have had recently two parties competing for government, there was been a feeling that what will benefit one side must hurt the other.

BPS: It seems similar to three challenges in football. You cannot slow down the game too much but you need to pick your spots. I think there is a political process problem with government throwing too much into

omni-bus bills but you couldn't bet the three challenges because you would just have a challenge of the omnibus bill. Government could try to beat the system by breaking controversial policies into seven chunks but that does not seem very feasible.

KG: There could be compromise over the exclusion of certain bills. The budget bill and the budget implementation bill that implements the tax statutes may be something every opposition would want to hold over for nine months every time. That may not be acceptable and that could be negotiated. But we think there is a better way to do things than we are doing them now and we are open to having those discussions. Government has to come to the table in a timely fashion though because we all have to live under those rules. The problem we have now is no real start date, and a soft end date of the second week of June. But legislation does not have to have passed by June; nothing has to have happened by then. That results in the Legislature having to be recalled, which is what happened last year. The House actually rose the second Thursday of June but was recalled the next week and we just continued. Of course there is an internal pressure to rise by the June end date because people often make plans around that date. People book summer holidays planned around that date but it's more advisory than anything else right now. What negotiations could look at is clear direction in terms of when the House starts and when it ends, but allow flexibility for opposition within that and then maybe everyone could benefit. Then we would be in the Legislature for a good amount of time, there are questions that can be asked, proper debate, the public can be aware of legislation, there is some flexibility for opposition, but it still allows government to govern.

BPS: One pattern that has emerged over the last decade has been legislation as a framework for decision-making and does not dispose of substantial outcomes. There are often a vast number of outcomes possible from the legislation. At the federal level, there were reforms to ensure that the regulation making process would have regularity and transparency. I have suggested provincializing the federal model. Regulations need to be published in the Gazette, there needs to be cost-benefit analysis, public input. There have been a few episodic lurches in that direction. Do you think there needs to be a systemic regulation making process in this province?

KG: Yes, I do think that is something that needs to be looked at for reform because we are seeing more enabling legislation with the details to be filled in later by Cabinet. So much of the decision-making is happening in cabinet, through the meat and potatoes of regulation approval. Often we are given assurances that there will be consultation with the people who are impacted by the regulations. Sometimes there are consultations and sometimes there are not. Sometimes we learn that it was not much more than a phone call saying this is going to happen. That is problematic for people. It also takes power away from the Legislature. It is particularly true in our legislative process because our committees are so weak. When you look at Parliament and their standing committees who do significant research, bringing witnesses who testify under oath, which may not always be a perfect process but generally that system is much better than the one we have. We do not have the ability to call witnesses at committee, to discuss how they or others would be impacted by regulations. One could have a committee system that empowers committees to do these sorts of things. It would, I think, bring more meaning into the work of MLAs. We have seen research about how MPs in particular view their work as not as valuable as it could be and I suspect many MLAs would give the same feedback. It would give MLAs more ability to provide input into issues that matter to them. So we could have more discussion about regulations, and how they are affecting people. But that does not happen. The feedback that we get after Second Reading during committee stage is minimized because the regulations are not known then. Our system is lacking in this respect.

BPS: Our system also has a scrutiny phase. It seems to me that you do not generally have elected officials, or at least the opposition members involved in the thinking, planning, and consultation process before a product emerges. In the United States, you can have committees that investigate an issue, inviting input because laws are created in committee not by executive emanation. So you can actually have input thinking, allow strategic planning and so on. We do not have that.

KG: That is what we are missing. We need committees that can examine more than what they do now. The feeling is that these things will always become hyper-partisan, becoming an extension of the House. I do not

think that is the experience in most committees of supply or in the estimates process that we have now. We did have some issues last session that led to very partisan committees, but generally it is a very different type of process than what happens in the House. If you go listen to Question Period and go listen to the estimates process in committee it is night and day in terms of the difference. The estimates process at its best is a thoughtful, quiet, deliberate discussion between politicians. If you had that kind of process in the committee system, it should not become a partisan show generally. Ultimately if it did get overtly partisan it would reflect poorly on the members of that committee, but I have enough faith in MLAs on all sides of the House to think that this is something that could make their jobs more impactful and meaningful but also end up with better results.

BPS: The other most controversial thing from that session was Bill 18. The assessment of my students on the politics was roughly that while everyone could recognize some merit in the government's attempts to address problems associated with bullying, government wanted to use it as a wedge issue. This could help to define where people were on the political spectrum. They are the party of tolerance and you are the rural reactionaries. Your strategy was to show that you were reasonable and could make proposals on substance. There may have been a lot of debate on substance but there was a meta-political dialogue of how do we ideologically label each other. Potential substantive meeting point could have been on the amendments you proposed, but the NDP did not pass any of them.

KG: Although they did admit most of the amendments were good.

BPS: That was the mystery to some of us. What was the calculation behind not accepting any of the amendments?

KG: I do not know. The issue of Bill 18 for me was always that of a missed opportunity. I spent time looking at the anti-bullying laws of every province in Canada and every state in the US. There are many similarities between them. You are never going to eliminate bullying unfortunately. But what I did find were lots of good ideas that had an impact in reducing bullying. What we were trying to do was incorporate some of

those into Bill 18. My feeling was if we did not, the bill would not only not make things better it could make things worse. My view now a year after the passage of Bill 18 is that in many ways is what has happened. We see more parents concerned about the bullying that is happening a year after Bill 18 than there was last year prior to the Bill being introduced. Part of that is because there is increased awareness. People come in and say that there was a bill that was supposed to help my son or daughter who is being bullied because they are overweight or not doing well academically or whatever the issue is, why isn't this bill doing anything to stop it from happening? In some ways the bill caused as much harm because it raised an expectation in the public that there would be something there to protect their kids now. We never believed that would happen. It was a weak anti-bullying bill and I think that has been proven.

We were trying to take what we were seeing in other jurisdictions and build that in where we could. There were some other things like court applications that are seen in the Maritimes that have some impact on the more serious cases of bullying as well. It is hard to bring something like that into Bill 18 so we had a stand-alone bill that would have done that. One of our amendments would have allowed the reporting of bullying anonymously. It is a huge issue and has been proven on the West coast to have at least some positive impact in reducing bullying. Kids feel peer pressure; they see one of their friends being bullied and they are scared to report it because they think if they are found out the bullying will transfer to them. That suggestion came out of committee, so we brought that forward as an amendment. The government said yes that makes a lot of sense but did not vote for it. The issue also came up about the need for some consequences for bullying and that they be progressive consequences if bullying continued. The NDP generally agreed that was important but did not support the amendment. Ensuring that parents were empowered and making sure that parents had the information was another amendment. As a parent of a seven year old, bullying as it exists today which my son may face is different from what I faced as a child. Unless I get this kind of information back from the schools, I may not understand what is happening in the schools. Just the right to know that my son was bullied, or was acting as a bully, seemed like a perfectly reasonable and logical amendment. The NDP said they were not opposed to it but voted against it. In fact about a month after Bill 18 had passed, the NDP said that a lot of what was suggested were good amendments.

That was a missed opportunity, there are so many kids out there being bullied for so many reasons that I think were given a false impression that this bill was going to do something to help them. And Bill 18 wasn't that bill. I think when government presents something as one thing and it gives a false hope that is a real disservice. The amendments, why they were defeated by the government, I have no clue. What I actually thought, but I was wrong, was that they would take those amendments and bring them into a bill this year and claim it as their own. But they did not do that, it is quite possible that they are waiting to do that next year closer to an election, but I do not think you should play politics with kids that way. Anonymous reporting, empowering parents, progressive discipline all logical, all have some impact - doesn't eliminate bullying but has some positive impact. Those are not difficult or controversial things to do and the NDP should have supported them.

The other thing where the government missed the ball was they did not go to the school boards first. The interesting thing about the Bill 18 committee hearings is they had the potential to completely go off the rails but they were actually very good, very respectful and very enlightening. People came forward to tell heart-wrenching stories; the most emotional committee hearings I have ever sat through. Schools came forward to say what they were doing and what was having an impact. Individual school boards are facing different challenges in different parts of the province but they had their own ideas. I think that the first step the government should have taken was to go to the school boards and say give us your best ideas and practices. Some of them could have been applied across the province. Asking what is working already and trying to implement that as part of a bill makes sense. But that did not happen.

BPS: A remarkable thing happened the last session that did not get very much press, but it was an anomaly for people who had been following the Legislature for a number of years which is extensive, substantive private member's bill on privacy was passed. This was the eighth time a member of your caucus had introduced this type of legislation. How did this happen?

KG: We had three private member's bills pass in the spring of last year and also four pass this session, which was a historic amount. It is partially

because of negotiation and partially because these are good pieces of legislation that have support from Manitobans.

BS: I don't know if that has mattered in the past.

KG: They have passed some of our bills in the past. But this amount was unique and formed a significant part of our negotiation.

One of the things that happened early on, and I give full credit to Brian Pallister on this, I don't think the NDP, most Manitobans or most in the Legislature believed we would be going through the summer last year. We had a couple former MLAs visit the Legislature who came to me after, in about the middle of June, and said there is no way you will sit into the summer, it just doesn't happen. But from my first discussion with Brian Pallister on this, right after the PST was announced, I had absolutely no doubt that he had the resolve to go through the summer and that our Caucus did as well. I had no question about it. If changes did not occur to the PST increase, there was no question that the mandate was to go as long as we could or until we thought the point had been made as well as it could.. But the government did have doubt, they needed to be convinced. And the long session helped in the negotiation of getting private members bills passed.

JD: For me having read transcripts of committee hearings, it does not always seem like the public, even when they are very involved, have a great grasp of legislation or its impact. Is that something you notice?

KG: It depends on the legislation. On the PST specifically people galvanized around the one percent increase. But people come to committee for different reasons, you do get regular committee presenters and that is just something they do because they like doing it. But then there are others who may be experts in a field or union leaders speaking to all sorts of different issues. As I said on the PST I thought it was a little more insightful because people were speaking to a very broad issue. The presenters did not have to focus on the nuances of the balanced budget law, although a lot of people did focus on the fact that the referendum had been taken away. Even for me I was surprised at how many people were upset that they lost the right to a referendum under the legislation. Those committees were good I felt.

The Bill 18 committees were different in that presenters were using the opportunity to talk about their own experiences with bullying. It was cathartic in some ways. Others used it to discuss LGBTQ rights issues. So the presentations were a bit more varied on Bill 18 but also very insightful. What disappointed me about the Bill 18 hearings was the Premier did not come. Not to be overly political but Premier Selinger did not attend a single hearing, I think he should have. That would have been a signal not that the government was going to change its mind but that it was respectful of the fact that people were concerned. In fact the Premier didn't attend a single PST hearing either. I don't think he did himself a service by not attending, I know the Premier is a busy guy, you cannot expect him to be at every meeting, but he did himself and his government a disservice by not attending one or two of the hearings. Committees can be very useful in some ways but if they are not respected then they lose their impact. And coming to the presentations is one way to show respect.

JD: In what other ways can stakeholders and the public get involved in the legislative process other than the committee hearings, either at the front end or after the fact looking to impact?

KG: Part of the challenge is that the public, where it has an interest, whether as part of a group or individually, needs to be involved much sooner in the process, almost before legislation is introduced. The problem is that once government has introduced legislation, that generally means that they have considered it in their cabinet, perhaps their caucus, had some degree of stakeholder consultations and considered the political ramifications. By the time a government introduces legislation they are half way down the field. To the public it seems like it is just the beginning of the process but the government is already significantly invested. The success of those who get involved in policy, whether with lobby groups or organizations, is that they stay in front of the issues and are involved with government all the time. They are not necessary trying to play catch up when a bill is introduced, they are trying to be involved before legislation is introduced. The public needs to, either as individuals or in groups, become more engaged with issues prior to legislation being introduced. Making sure that their MLAs or government officials are aware of their priorities because once legislation is introduced, now you are playing catch up if you have a

concern with it. People should still come to committee and be involved in that way, sometimes changes happen from that process, but if you want to make a greater difference you need to get ahead of the legislation not follow it.

JD: Do you ever try to get ahead of legislation as an opposition member?

KG: Absolutely, either through private member's bills or going directly to ministers laying out an issue and asking for it to be addressed. One example that I had was constituents who raised the issue about not being able to get detox treatments for their children under the age of 18 who were fighting addiction. Until you are able to get a young person into detox treatment and off of the effects of a drug, it can be hard to convince them that long term treatment is needed. That is something we brought to government not as a private member's bill just as a concern. Ultimately, a bill was drafted that allows parents to get detox treatments for their kids under the age of 18 to give them the chance to make the right decision once off the physical impact of drugs. That bill was then passed. So we do try to get ahead of things. That does not always get on the news because it is not politicians arguing. But that is where you can make significant impact.

BPS: I have never actually seen a headline "Elected Officials Engage in Rational Dialogue, Come to a Sensible Solution".

JD: Is it ever frustrating to you that people do not see that collegiality?

KG: Frustrating, sometimes. I think the challenge is that Canadians generally do not feel that their political institutions work well. They are right in the sense that there are a lot of things we could do differently, things that could result in better outcomes and a better process. So it is frustrating that people do not always see that there are good things that happen or that people do not get to engage their representatives as individuals. It is actually one of the things that I remember from law school, on the first day someone was speaking to the incoming class and saying that when you do opinion surveys about lawyers people tend to have a very negative view about the profession of law as a whole but a very positive view about their own individual lawyer. And politics is not much

different. When you talk to people about politics and politicians generally there is a very negative perception but often when you ask them about their own MLA or MP they have a better view because they can engage with that person more personally. Most MLAs or MPs, regardless of political stripe, most of them do it for the right reasons. They may be frustrated in the process and it may not result in the outcome they hoped for but they entered political life for the right reasons. I do not think the public always sees that. They may think people enter political life for all sorts of bad reasons like pay or pensions but my experience is that the vast majority of people enter it for the right reasons. Can they always fulfill what they hoped to in political life? Not always but that is probably true for every job.

Now what is interesting is that when you see young people come to the Legislature often they are not impressed with what they see in Question Period. They can come out a little dismayed about the decorum. And there are for sure improvements that can happen there and that should happen. But when you speak to new Canadians who come from countries where they cannot speak openly against their government they are amazed that we have the freedom to do so. They often come out of Question Period with an entirely different view. They cannot believe we have the freedom to speak about how government operates in such a free fashion even if it is an aggressive fashion. We have to remember that we may not always think our system is great, and it certainly can be improved, but many people coming to Canada from other countries marvel and have great respect for our political system.

JD: What do you expect going forward into this next session?

KG: Well I said it when we were concluding our session in the Legislature in June. It is the tradition of the House for House Leaders to wish each other and the staff a good summer. I thanked the staff for their work and warned them against making plans for next summer because we do not have any agreement and who knows what could happen. A lot of it obviously depends on the direction from our leader and our caucus, what issues come up, not just legislation because the Legislature is also driven by what issues surround the government at any particular time. There is also a movement to have discussions about the rules in the House. If that comes to fruition and there are real discussions on how the House

operates, if we come to an agreement that could have an impact as well. But as it stands we are wide open, so who knows?

BPS: Where are we in the product cycle? Is this the end of the four years?

KG: It is the end of the four years in 2015 but in terms of the election it depends. We are in a bit of an unknown. The legislation as it stands right now is if the federal government goes to an election next year in the fall we will go in the spring in 2016. If the federal government goes in the spring of 2015 we could hold an election in the fall of 2015 but it depends on how much notice the federal government gives on that. If federal government calls a snap election in the spring of next year the NDP would not be obligated under the law to call our election in the fall although obviously our view is that they should not extend their mandate artificially.

Ending on a positive note, I will say that everyone who was involved in sitting through the summer last year brought something to the table. It was a unique time. It was not always easy for everyone involved in the Legislature, but it was important and the right thing to do we believe. We did it because we wanted to show Manitobans that we were going to stand up for them on the issue of the PST increase and other issues in the future. In terms of the government House Leader at the time, Jennifer Howard, one of the things that was positive coming out of that was that we maintained a positive working relationship. We spoke almost every day in the summer even though we did not reach an agreement until September. We did maintain a very collegial relationship and it is important for House Leaders in our system to do that. Those negotiations never took place in public, they were always with a lot of confidence and confidentiality. I think that was to the benefit of both of us. I do think that we were both able to get through that professionally and respectfully which is not always seen in politics.