



The MTS Debate

There's a saying in the legislature that it is the government that decides when a legislative session begins and the opposition that decides when the session ends. In most instances, this would appear to be true. An experiment in the mid-1990s, however, was aimed at removing, or at least limiting, the uncertainty as to when and how a legislative session would come to a conclusion. The experiment was met with disaster in just its inaugural year and was immediately discontinued.

On 22 December 1995, a Memorandum of Understanding was signed by leaders of all parties in the Manitoba Legislature regarding new rules of legislative procedure for the upcoming session. Under the new rules, the government was committed to introducing all bills in the spring session no later than the second Thursday in June. This was meant to give the public and the opposition several months to consider the bills before the House resumed in the fall. In return, all parties were obliged to ensure that all bills would proceed to a vote on third reading no later than the last Thursday of November 1996.¹²³ On 2 April 1996, the new rules of procedure were unanimously adopted by a vote of all members of the legislature.¹²⁴ The new rules were to apply for the one legislative session only, unless all parties agreed to renew them for additional years.

On 27 May 1996, the Filmon government introduced Bill 67, *The Manitoba Telephone System Reorganization and Consequential Amendments Act*.¹²⁵ The bill provided for the privatization of the then publicly owned telephone company. It was immediately evident the bill would be subject to intense political and philosophical debate. It would also ultimately be the bill that would test the strength and effectiveness of the new rules of procedure.

¹²³ See Memorandum of Understanding (22 December 1995).

¹²⁴ Manitoba, Legislative Assembly, *Debates and Proceedings* [hereinafter Hansard], Vol. XLVI No. 10 (2 April 1996) at 433.

¹²⁵ Hansard, Vol. XLVI No. 40 (27 May 1996) at 2728.

On 4 June 1996, Bill 67 proceeded to debate on second reading, and the House adjourned for the summer on June 6.¹²⁶ As per the new rules, all government bills had been introduced prior to the summer recess.

The House reconvened on 16 September 1996, and debate on the bills before the House continued as normal. On October 28, Bill 67 passed second reading and proceeded to the Standing Committee on Public Utilities for what would be numerous days of public presentations and submissions.¹²⁷

On November 7, with only three weeks until the last day of session under the new rules, the government introduced major amendments to Bill 67.¹²⁸ The following week, the government sought the unanimous consent required to begin Report Stage and debate on amendments after failing to provide the requisite two days notice. When unanimous consent was denied, debate was adjourned until the following Monday, November 18.

The final two weeks of the 1996 legislative session would prove to be a challenge for the new rules and for those bound by them. The greatest challenge, however, would ultimately be faced by the Speaker of the House, Louise Dacquay—the one member charged with the administration of the rules of the House.

On November 12, Opposition House Leader Steve Ashton rose for clarification of the provisional rules and argued the rules did not allow for a continuation of the legislative session. Under the provisional rules, the fall sitting of the House was to be 8 weeks, or part thereof, in duration. Ashton argued that once the 8 weeks had elapsed, a motion to extend the session was required. Speaker Dacquay relied on the rule which stated the fall sitting was to conclude no later than the last Thursday of November to justify extension of the session past the eight-week mark without specific agreement of all parties. Steve Ashton challenged the Speaker's ruling, but the ruling was upheld.¹²⁹

On November 18, debate began on the amendments to Bill 67. As well, with the agreed upon end of session date only 10 days away, Government House Leader Jim Ernst asked the Speaker to do the unprecedented—set a timetable for debate and strictly enforce it to ensure the passage of Bill 67 by the November 28 deadline.¹³⁰ Three days later, Speaker Dacquay responded to the government's request and ruled to limit the time for debate on Bill 67 to ensure its passage by the following Thursday. According to Speaker Dacquay's

¹²⁶ Hansard, Vol. XLVI No. 47 (6 June 1996) at 3465.

¹²⁷ Hansard, Vol. XLVI No. 71 (28 October 1996) at 4565.

¹²⁸ See Hansard, Vol. XLVI No. 80 (13 November 1996) 4976-4980 for Report of Standing Committee outlining amendments.

¹²⁹ Hansard, Vol. XLVI No. 79 (12 November 1996) at 4961.

¹³⁰ Hansard, Vol. XLVI No. 82 (18 November 1996) at 5061.

ruling, the issue of how the various stages of bills were to be completed so third reading could be received on the final day of session was not contemplated when the new rules were adopted. Therefore, she indicated, there was a gap in the rules and, in the absence of a negotiated solution by the House leaders, it was the Speaker's role to give effect to the new rules by ruling on the allocation of time so deadlines established in the rules could be met. Speaker Dacquay stipulated that if Report Stage and debate on amendments was not completed by 2:45pm on November 27, the Speaker would then call for a vote on the amendment then under debate—no further amendments would be debated—and would call for a final vote on Report Stage at 4:00pm the same day. Then, on November 28, any votes that needed to be taken to dispose of third reading of Bill 67 would be conducted at 2:45pm. Royal Assent would immediately follow and the House would adjourn on November 28, in accordance with the new rules.¹³¹

Opposition House Leader Steve Ashton immediately called the Speaker's ruling unprecedented and absolutely unacceptable. The ruling was challenged but was sustained by a majority of the members of the House. Ashton then rose on a Matter of Privilege—a serious procedure which takes precedence over all other House business—and moved that the House no longer had confidence in the Speaker. Ashton claimed the government had used the Speaker to invoke closure on Bill 67, a move the government could have taken itself but had previously promised it would not consider. Ashton argued it was unprecedented for a Speaker to not only invoke closure, but to invoke it without a motion for closure put forward by the government. He claimed the Speaker had acted outside of her duties as presiding officer of the House and moved that the House had lost its confidence in her. The motion was defeated by a vote of all House members.¹³²

Debate on Bill 67 continued during the last week of the legislative session, until November 27. On Wednesday, November 27, after ruling on a point of order, Speaker Dacquay recognized government House Leader Jim Ernst on a subsequent point of order. Opposition House Leader Steve Ashton immediately interrupted with a Matter of Privilege, again, a matter that normally takes precedence over all other matters. But Speaker Dacquay refused to hear Ashton until she had dealt with Mr. Ernst and his point of order. Then, pursuant to her ruling on November 21, Speaker Dacquay halted proceedings at 2:45pm to call a vote on the last amendment to Bill 67 debated in the House. The vote meant no further amendments to the bill could be moved or debated.¹³³

¹³¹ Hansard, Vol. XLVI No. 85 (21 November 1996) at 5186-5188.

¹³² *Ibid.* at 5189-5206.

¹³³ Hansard, Vol. XLVI No. 88 (27 November 1996) at 5363-5364.

After the vote, Steve Ashton again rose on a Matter of Privilege, and Speaker Dacquay again refused to acknowledge him. Ashton and his NDP colleague, Gord Mackintosh, went so far as to cross the floor to stand in front of Premier Filmon's desk in a desperate attempt to be recognized by the Speaker, but this was to no avail.¹³⁴ The Speaker allowed Mr. Ernst to continue with his point of order, and at 4:00, the Speaker again halted proceedings to call the final vote on Report Stage. Once the vote had taken place, Speaker Dacquay acknowledged Steve Ashton on his Matter of Privilege.¹³⁵

Ashton immediately called for the resignation of the Speaker. Citing a host of rules Ashton believed the Speaker had breached just that afternoon alone, Ashton argued the Premier was responsible for using the Speaker's chair to "destruct the democracy of this province."¹³⁶

The Matter of Privilege was debated throughout the 27th and continued on November 28, the final day of the fall session. The motion for the Speaker's resignation was lost as the government moved that the House should revert to its Orders of the Day, the agenda for the day's business.¹³⁷

As promised in her ruling on November 21, Speaker Dacquay interrupted proceedings and called the vote for third reading of Bill 67. NDP members refused to participate in the vote, stating they did not want to offer any legitimacy to the 'illegitimate' process by which Bill 67 reached its final stage.¹³⁸

¹³⁴ See F. Russell, "NDP howls over loss of privilege" *Winnipeg Free Press* (29 November 1996) A14.

¹³⁵ Hansard, Vol. XLVI No. 88 (27 November 1996) at 5364-5366.

¹³⁶ Hansard, Vol. XLVI No. 88 (27 November 1996) at 5366-5379.

¹³⁷ Hansard, Vol. XLVI No. 89 (28 November 1996) at 5385.

¹³⁸ See A. Krueger, "It's all over for MTS: Last Bill 67 battle draws big crowd" *Winnipeg Free Press* (29 November 1996) A1.

The Opposition members stood along the wall of the Chamber behind their seats and shouted 'shame' after each member of the government stood to support Bill 67.¹³⁹ The bill was passed by a vote of 30-2.¹⁴⁰

¹³⁹ See F. Russell, "NDP howls over loss of privilege" *Winnipeg Free Press* (29 November 1996) A14.

¹⁴⁰ Hansard, Vol. XLVI No. 89 (28 November 1996) at 5387.