



Parliamentary History

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Introduction

The Legislative Assembly of British Columbia is the home of parliamentary democracy in our province. It is here the plans, policies and decisions of the government are presented for consideration, debate, and then approval or defeat.

This House, and the Members who hold seats here, represent the broad diversity of our province. Their voices express the values of their communities and articulate our collective hopes for the future. The debates may be heated at times, and the words sharp with criticism, but the role of Members as representatives of their constituencies is fundamental to parliamentary democracy.

The Legislative Chamber and the functions of this House represent the essence of our democratic ideals. During the evolution of Parliament, it became clear, over time, that it was not acceptable to the people—the “commoners”—that laws be made in private in the king’s chambers. No longer could these be passed into law without scrutiny and the openness that is implicit in our system.

Today, not only are our laws brought into this House for three separate readings, or considerations, but also requests for public expenditures by government are brought to the House in the form of a Supply bill or Estimates debate on each government ministry.

The Members of the Legislative Assembly (MLAs) are elected to participate in debates on legislative proposals, to consider financial expenditures of government, and to ensure that the principle of responsible government is upheld through their examination and scrutiny of the policies and priorities of government.

Parliamentary History

As you know, the Westminster model of parliamentary democracy has its roots in British society, and it is found throughout the Commonwealth, including here in British Columbia. Our understanding of this institution is enhanced if we consider the evolution of Parliament over the centuries. In fact, it has been said that the British Parliament strikes its roots so deep into the past that scarcely a single feature of its proceedings can be made intelligible without referring to history.

Early kings of England often summoned various noblemen in order to gain their advice on important matters of state. These gatherings were described as “courts” or “great councils”. The Magna Carta was sealed on June 15, 1215 between King John and the English barons, and by 1275 King Edward I had summoned knights and burgesses to Parliament to advise him on financial matters, in essence to approve his supply of public funds. Thus, we see that from these great councils emerged, during the 13th century, the beginnings of the institution of Parliament.

The practice of the Crown, or later the executive branch of government, approaching parliament for approval of public expenditures continues today as one of the Legislature’s primary functions. Historically, the Crown incurred heavy expenses in the course of running royal households or pursuing military objectives. By the 14th century, the early British House of Commons recognized its influence in that their approval was necessary before the funds would be granted to the monarch. If the Commons perceived wrongdoing on the part of the monarch, it would petition the king to correct it. In fact, the Commons would not agree to approve the supply of funds to the king until the wrong had been redressed. This principle, known as “redress before supply”, secured the commoners some political influence over the events of the day—a tradition that is continued today.

By the middle of the 14th century, Parliament had divided itself into two Houses: the House of Lords for hereditary noblemen and bishops and the House of Commons for elected representatives. In the years that followed, Parliament and the Crown struggled constantly for power. Parliament still wasn't a permanent body with regular sittings, as it is now. It met only when the king called it together, and kings only summoned Parliament when they needed more money.

More than most kings, Charles I resented Parliament checking his power. By 1631 he had dissolved it, refusing to recall it for 11 years. After exploiting every legal means he could think of to raise money, the Crown was broke, and the King had no choice but to summon Parliament again in order to receive his required funds. The tensions of this period, and Charles' disdain for Parliament, eventually led to his execution. There followed the brief and tumultuous rule of Oliver Cromwell as Lord Protector. After Cromwell's death, Britain had had enough of this alternative republican system, and Parliament welcomed Charles II, son of the former monarch, back from exile. This was referred to as the "Glorious Revolution"—"glorious" because no blood was shed during the restoration of the monarchy.

Almost 400 years of history had left its mark. The crucial balance between the Crown and Parliament was struck. Although, the Sovereign was to govern, the role of Parliament was to be consulted and offer its consent. It had been decisively proven that neither body could perform the role of the other.

By the 18th century, political parties began to emerge, replacing the shifting alliances that had been prevalent in earlier years. The role of ministers, formerly the king's closest advisors, also began to arise at this time. Even though they were elected as "commoners", up to this point ministers had been primarily loyal to the king, rather than the House of Commons. This evolution took place during the reign of the Hanovers, who were not terribly interested in the mundane affairs of government. Apparently some, including the German-born George I, didn't speak English well and were disinclined to influence or monitor Parliament's work.

With the declining interest of the monarchy, ministers became increasingly dominant within Parliament. They began to act co-operatively as a body. As the cabinet, which had originated as a secret privy council advising the king, the group of ministers began to take on more executive functions—though still in the name of the Crown, as is the case today. This was a gradual process, but one which marked the beginning of responsible government.

By the late 18th century, the main elements of the modern parliamentary system appear to be in place: the supremacy of the elected Commons, well-defined political parties and a system of responsible government, whereby legislators oversee the work of the executive branch and may scrutinize the performance of elected colleagues who have taken on the roles of ministers within parliament. Whether that scrutiny is effective is a point that can still be debated.

The Westminster model of parliamentary government has thus evolved slowly. It ensures that the will of the majority shall prevail, but the minority shall have the right to be heard. It also secures the right of the elected representatives to review the administrative undertakings of the elected government. Today, we may take these elements of the parliamentary process for granted, but as we have so briefly discussed, it was achieved through centuries of conflict.

The Role of the Speaker

The Speakership is the most important office in the Legislative Assembly of British Columbia. The House cannot operate without a Speaker. Section 37(1) of the provincial *Constitution Act* states that "On its first meeting and before proceeding to business, the Legislative Assembly must elect one of its members to be Speaker."

On the very first day of the first provincial Parliament in British Columbia (February 15, 1872), Lieutenant Governor Trutch refused to continue with the opening proceedings because a Speaker had not yet been chosen. With Trutch absent, the members elected James Trimble as the first Speaker, and the following day the Lieutenant Governor returned and read the inaugural *Speech from the Throne*. To this day, although the opening of parliament is deemed to be Crown prerogative, the Lieutenant Governor will only proceed with the opening once a Speaker has been elected by the Members.

Because the Speaker chairs or presides over the meetings of the House, he or she is commonly referred to as the senior Presiding Officer. The Speaker's authority is derived from the House, to which his or her duty lies and to which he or she is answerable. The Mace, which symbolizes the authority of the House and the Speaker, precedes the Speaker into the House at the commencement of each sitting and remains in the Chamber throughout the sitting.

The Speaker's Representative Role

The Speaker is the spokesperson for the House (hence the derivation of the name 'Speaker') in its relations with the other parts of the parliament—the Crown (represented by the Lieutenant Governor) and the other arms of government (the executive and the judiciary)—and with external organizations. In this role, Speakers are expected to maintain the authority of the House and to protect its rights and privileges. The Speaker also receives special visitors on behalf of the House, including delegations from other parliaments. On formal occasions, the Speaker represents the House and plays a central ceremonial role.

The Speaker represents and is responsible to the House and all of its Members, whether in government or opposition. He or she is not responsible to the executive branch of government and, in fact, seeks to preserve the independence of the House from its influence.

In the Chair—the Speaker's Procedural Role

As Presiding Officer, the Speaker oversees the proceedings of the House and ensures they are conducted in an orderly manner and according to the provisions of the *Constitution Act* and the Standing Orders of the House. The duties performed in the Chair are probably the Speaker's most challenging.

The Speaker opens each sitting by calling upon a Member to lead the House in prayer. This is followed by various items of routine business, and then items of government business. Throughout the sitting, the Speaker must ensure that the rules of parliamentary procedure as embodied in the Standing Orders and practice of the House are applied. The Speaker interprets and enforces the Standing Orders, responds to Members' points of order relating to them, and gives rulings on procedure when necessary. For example, the Speaker is often called upon to decide whether remarks made about another Member are offensive, whether a Member's speech is relevant to the motion being debated, or whether a particular motion or amendment is permitted to be moved at a certain time.

An important part of the Speaker's job is to protect the rights of individuals and minorities in the House, and to make sure that everyone is treated fairly within the framework set by the rules. The Speaker calls upon Members wishing to speak, and, in a House with a relatively balanced allocation of seats, seeks to do so without favouring either the government or opposition Members.

The Speaker must maintain order during debate. While most proceedings pass routinely and without incident, there are occasions when the House becomes noisy and unruly. The arguments that sometimes occur in the Chamber do not necessarily indicate a loss of civility or an inability to

negotiate. Often misunderstood, this quarrelsome conduct is an essential and important means of dispute and debate. However, the Standing Orders do provide disciplinary powers that enable the Speaker to maintain order. These vary in their severity and allow the Speaker to deal with breaches of order in the most appropriate manner. For a minor infringement, a Member may merely be called to order or warned. For a more serious offence, a Member may be ordered to withdraw from the Chamber. For a major offence or for persistent defiance of the Chair, a Member may be ‘named’ by the Chair, and a motion for the Member’s temporary suspension may be moved.

The Speaker supervises rather than participates in proceedings. He or she does not normally take part in debate and does not vote in the House. An exception is that in the event of numbers being equal, the Speaker has a casting vote.

While the Speaker typically spends a considerable part of each sitting day in the Chamber, he or she is not present throughout all proceedings. The Deputy Speaker and the Deputy Chair of the Committee of the Whole often take the Chair to assist the Speaker.

Impartiality of the Chair

Speakers of the Legislative Assembly strive to discharge their duties with impartiality. As a rule, Speakers have been sufficiently detached from government activity to ensure a high degree of impartiality in the Chair. Members are entitled to expect that, even though the Speaker belongs to a political party, his or her functions will be carried out impartially. At the same time, a Speaker is entitled to expect support and cooperation from all Members, regardless of their party affiliation.

Administrative Responsibilities

The Speaker has ultimate responsibility for the administration of the Legislative Assembly. This includes the provision of support services to Members, and the overall management of the Parliament Buildings and the precinct. The Speaker is considered, in effect, the “minister” of the Legislative Assembly, having a role similar to that of a minister in relation to a government ministry. The difference, of course, is that he or she does not sit in cabinet.

The staff of the Legislative Assembly provides administrative support for the efficient operation of the House and its committees. The staff also supplies a range of services and facilities for Members, from office accommodation to the payment of Members’ salaries and allowances. The Speaker also oversees the work of the Legislative Library, Hansard Services, the Sergeant-at-Arms staff, and other administrative support offices of the House. In undertaking his or her administrative responsibilities, the Speaker can also expect to have the advice and assistance of the Clerk of the House and his or her staff.

Election

The Standing Orders of the House set down in detail the process for choosing the Speaker. They require that the Speaker to be elected by Members through secret ballot. The Clerk of the House is responsible for overseeing the election, and for announcing the result in the Chamber. In practice, the office of Speaker is usually filled by a Member of the governing party, although there is no requirement that this be the case.

At the dissolution of the House before a general election, the Speaker, and all Members, technically cease to be Members of the Legislative Assembly. For administrative purposes, however, the Speaker (like the Executive Council) is deemed to continue in office until a new Speaker is chosen at the next parliament.

Historical Note

The office of Speaker is an essential feature of the Westminster model. It is also a very ancient one. Dating from 13th century England, the office of Speaker was central in the centuries-long battle for supremacy between Parliament and the monarchy. The role of the Speaker has sometimes been an unenviable one. The first Speakers were responsible for carrying messages—often complaints and grievances—from Parliament to the king or queen. As the bearers of bad news, history shows a number of Speakers suffering violent deaths by way of execution or murder. Luckier others were imprisoned, impeached or expelled from office. This rather bloody and dangerous pedigree explains why a Speaker, upon election, will pretend to be reluctant to take the Speaker's chair. For their part, Members will pretend to drag the new Speaker to the chair at front of the Chamber.

Up to the 17th century, Speakers were often agents of the monarch. Subsequently, as Parliament gained supremacy, they were usually affiliated with governments. Some held government office. However, by the mid 19th century, the convention that the Speaker is above party politics had become established in the United Kingdom. In the British House of Commons, the Speaker abandons all party loyalties. When governments change, the current Speaker is re-elected to office, and at general elections a Speaker is usually unopposed by the major parties. This development has not been transported to Canada, although from time to time it has been proposed that a similar arrangement should be introduced here.

Role of the Clerk

The Clerk of the House is the senior permanent officer of the Legislative Assembly. He or she is assisted by a small number of Clerks Assistant. The Clerk and the Clerks Assistant are, in essence, the procedural and legal experts of the House and its committees.

During sittings of the House, the Clerk and Clerks Assistant sit at the Table of the House. Like the Speaker, they wear formal court attire, including a black robe, wing collar and white tabs. Strategically sited between the Government and Opposition benches on the floor of the Chamber, the Table has been compared to the best opera box in the theatre. It may well be, but while at the Table, the Clerk and Clerks Assistant have much to do.

The Clerk's primary function is to serve as the principal adviser to the House on the privileges, procedures and practices of Parliament. Like the Speaker, the Clerk is non-partisan. The Clerk is at the service of the Legislative Assembly and of all its Members, regardless of party affiliation. The Clerk hears, advises and counsels all Members with utter objectivity and impartiality. Any advice the Clerk gives, to the Speaker or other presiding Officers, is offered to assist in the effective and smooth functioning of the Chamber.

While sitting at the Table, the Clerk listens carefully to the debate, as he or she may be called upon to give immediate advice to the Chair or others regarding a procedural or technical matter. Any Member can ask the Clerk for advice during proceedings—perhaps in relation to a point of order they wish to make, or a motion they wish to move. The Government House Leader (the minister responsible for the scheduling of government business) can often be seen consulting the Clerk in relation to the progress of House proceedings.

Day-to-day procedural advice is not just given at the Table. The Clerk and Clerks Assistant help the Speaker and other presiding officers to prepare for each sitting at daily briefings to discuss any foreseeable points of procedural difficulty. A considerable amount of time is spent on this behind-the-scenes work.

The Clerk and Clerks Assistant are the only non-Members to have a speaking role in the proceedings of the House. They announce each item of routine business to be considered during the day's sitting. They also read aloud the names of each bill passed by the Legislative Assembly prior to the Lieutenant Governor granting Royal Assent.

As the day's sitting unfolds, the Clerk and Clerks Assistant enter in minute books the decisions and actions of the House for publication in the *Votes and Proceedings* (essentially, the Minutes of the House), which eventually get compiled as the annual *Journals* of the House. Unlike the Hansard record, which is a verbatim transcript, the *Journals* record the decisions and business items completed by the House, not all that is said during a sitting.

The Clerk and Clerks Assistant also oversee the taking of votes, also known as divisions, and see that the results are duly reported in the *Votes and Proceedings*.

The Office of the Clerk also compiles another publication on each sitting day, the *Orders of the Day*, which can be thought of as an agenda. For each sitting, staff in the Office of the Clerk lists all items of business eligible to be called by the Government House Leader.

The Clerk is the official custodian of all House records and any official documents deposited with the House, such as legislation at its various stages, petitions and reports. The Clerk ensures that these documents are complete, appropriately presented and considered by the House, and then safely archived. The latter is central to the openness and transparency of the Legislative Assembly, allowing documents to be accessed by the public.

Another of the Clerk's roles is to assist the Speaker in the administration of the House, including the provision of financial, Committee, library, Hansard, computer and security services to Members. Approximately 110 individuals comprise the Legislative Assembly staff. They are responsible for providing services to the Speaker and Members of the House. The Clerk administers the work of staff members on behalf of the Speaker, in much the same way that a deputy minister of government manages a department for a minister. In this work, the Clerk is aided considerably by the four Clerks Assistant and other staff in the Office of the Clerk.

Historical Notes

The office of the Clerk of the House has its origins in the early English Parliament. The title 'clerk' then signified a person who could read and write, which were uncommon skills at that time, and his role was to record the proceedings. The first reference to a Clerk of the British House of Commons occurs around 1363. One of the best-known Clerks, Clerk Assistant John Rushworth, was appointed to the British House some 300 years later. It is thanks to Rushworth that we have a record of one very significant moment in parliamentary history.

January 4, 1642 was the day King Charles I arrived at the House of Commons determined to arrest five of its Members. Their crime was sponsoring a petition that was critical of the King. Charles and his soldiers strode into the Chamber and up to the Speaker's chair. Standing before the chair, Charles said, "By your leave, Mr. Speaker, I must borrow your chair a little," and he called out the five names. He was met with a stunned silence. The five Members he called had slipped out the back door. Charles turned to the Speaker and demanded to know their whereabouts. The Speaker went down in history for replying, "May it please Your Majesty, I have neither eyes to see nor tongue to speak in this place, but as the House is pleased to direct of me, whose servant I am. And I humbly beg Your Majesty's pardon that I cannot give any other answer than this."

It was the first direct and public rebuke to the King, and an assertion of Parliament's right to meet independently and without interference from the Crown. Charles stood down. He remarked, "I see

the birds have flown!” and left the Chamber amidst the angry calls of the Members. It was clear to all that Charles had violated one of the fundamental principles of Parliament.

The words of the King and the Speaker during this famous episode would have been lost in history had it not been for John Rushworth. As Clerk Assistant he diligently recorded the famous exchange for the *Journals* of the House, while apparently, the Clerk of the House was immobilized with fear.

British Columbia Historical Notes

The first Clerk of our British Columbia Legislative Assembly was Charles Good, who was appointed in 1872. In total, ten Clerks have been appointed over a period of 131 years of parliamentary history in British Columbia.

Role of the Lieutenant Governor / Lieutenant-Governor-in-Council

Canada’s system of government is a constitutional monarchy, based on the Westminster model of parliamentary democracy. In fact, the preamble of Canada’s *Constitution Act, 1867*, states that our country shall have “a Constitution similar in principle to that of the United Kingdom.” The Canadian monarch is the same person as the British monarch, Queen Elizabeth II. She is Queen of Canada and the constitutional head of state of Canada.

The provinces of Canada were established following the Canadian framework. Just as the Governor General represents the Queen federally in Canada, each province has a Lieutenant Governor to represent the Queen in the province. British Columbia’s *Constitution Act* recognizes this in saying,

There must be in British Columbia a Legislative Assembly constituted as provided by this Act, and the Lieutenant Governor has the power, by and with the advice and consent of the Legislative Assembly, to make laws in and for British Columbia in all cases, subject to the Constitution Act, 1867, and to the order of Her late Majesty in Council.”

The Lieutenant Governor’s power to make laws means he or she must approve, or give “Royal Assent,” before any bill passed by the Legislative Assembly can become law. Our provincial *Constitution Act* also requires that any bill proposing to spend public money or impose a new tax must be accompanied by a recommendation, or “message,” from the Lieutenant Governor when it is introduced in the House. That statutory requirement is an historical remnant of the time when only the king or queen could raise public funds. Today it could be argued that almost every legislative proposal requires public spending in some form. To that end, the practice in British Columbia is for all government bills to be accompanied by a message from the Lieutenant Governor.

At the beginning of each new session of the Legislative Assembly, the Lieutenant Governor opens the session by reading the Speech from the Throne, announcing the government’s plans for that session. He or she also prorogues (closes) each session and dissolves the Legislative Assembly prior to a provincial general election.

Executive government in British Columbia is vested in the Lieutenant Governor acting by and with the advice of the Premier. The Premier selects MLAs from his or her party and advises the Lieutenant Governor to appoint them ministers of the Crown, known as the cabinet. Similarly, the Lieutenant Governor also has the power to dismiss both the Premier and cabinet ministers.

It is important to note that in a constitutional monarchy, the monarch (here represented by the Lieutenant Governor) reigns but does not govern. He or she has the authority to assent to legislation, but does so only on the advice of the Premier.

Lieutenant-Governor-in-Council

Although the Legislative Assembly is responsible for the consideration and creation of new laws, it is also a common practice for the Legislature to delegate its statutory powers. They are most frequently delegated to the Lieutenant-Governor-in-Council, meaning the Lieutenant Governor, acting by and with the advice and consent of the Executive Council. When the Lieutenant-Governor-in-Council exercises delegated authority, this is usually implemented in the form of an order-in-council (OIC).

Although orders-in-council are passed by the Lieutenant-Governor-in-Council, the Lieutenant Governor does not meet with the Executive Council to consider the content of each order. Instead, once the Executive Council has passed an order-in-council, it is then sent to the Lieutenant Governor for signature. Each order-in-council is signed by the minister responsible, the Premier, and the Lieutenant Governor.

It is important to note that any regulations passed in the form of an order-in-council have the same legal effect as if passed by the Legislature. Note that OICs generally deal with consequential or administrative matters arising from legislation already considered and approved by the Legislature. No original or unique policy matters should be captured within them.

Closing

The history and traditions of our parliamentary system are living, in which the past and present are joined. There is no doubt that it will continue to evolve. In so doing, it will both take and give shape to the future of parliamentary democracy in this province.