

PARLIAMENTARY REFORM IN BRITISH COLUMBIA: MR. SPEAKER AS ADVOCATE

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The Office of Speaker of the Legislative Assembly of British Columbia has existed since 1872. It was not, however, a full-time position until after 1972. While the Speakership in British Columbia has always theoretically corresponded to its counterpart at Westminster, it has only recently acquired many of the operational characteristics of the British model. In many ways, the contemporary Speakership in British Columbia is similar to the Westminster office. He presides over the House. He co-ordinates the administrative affairs of the members. He represents the legislature in its external relations. However, unlike his British colleague, he has statutory authority to serve as an advocate for parliamentary reform. This paper will attempt to review the Speaker's role in the legislative process in British Columbia during the 1970s. In addition, it will focus upon the role of the Speaker in his capacity as an advocate for parliamentary reform.

Since 1970 four men have served as Speaker of The British Columbia Legislative Assembly. William Murray, Social Credit MLA for Prince Rupert, presided over the 29th Parliament. Gordon Dowding, NDP MLA for Burnaby-Edmonds, presided over the 30th Parliament. Ed Smith, Social Credit MLA for North Peace River, served as Speaker for the first two years of the 31st Parliament. Mr. Speaker Smith was succeeded by Harvey Schroeder, Social Credit MLA for Chilliwack, who was re-elected Speaker at the opening of the 32nd Parliament in June of 1979. Speaker Schroeder continues in office.

All of the above Speakers were members of the governing political party. The British principle of continuity in the chair has not been established in the British Columbia house. All of the Speakers came to politics from either the business or professional worlds. All Speakers were relatively mature, in terms of age, when they came into office. All had some, if not extensive, parliamentary experience before assuming the Chair. The legislature has selected its Speakers from diverse geographical regions of the province.

Unlike the British House of Commons, the B.C. Legislative Assembly offers no tenure in office nor spe-

cial retirement plans for its Speakers. In point of fact, B.C. Speakers rise and fall in their political careers along with the fortunes of their parties. For example, Speakers Murray and Dowding each lost their seats when their parties were swept from office. Both retired from politics, obvious victims of polarized electoral politics.

Parenthetically, the Speaker's Office has been transformed from a sessional office which operated from ten to twelve weeks per year into a year round operation. The staff compliment has risen from one sessional position to four permanent positions and one sessional appointment. In 1971 the cost of operating the Speaker's Office was a few thousand dollars per annum. In fiscal 80/81 the programme budget for the Office of the Speaker was estimated at \$262,455 of which \$74,155 was allocated for a permanent staff.

MR. SPEAKER AS PRESIDING OFFICER

One of the four principal responsibilities of the Speaker is to preside over the deliberations of the Legislative Assembly. In this regard, the B.C. Speaker has powers and duties that are roughly comparable to his counterparts in Ottawa and Westminster. However, at another



Hon. William Harvey Murray
January 23, 1964-March 30, 1972

Photo courtesy of Special Services Branch, B.C. Ministry of Tourism

level, it is possible to note several developments in the role of the presiding officer over the past decade.

The legislature has come to demand more of its presiding officers. The position of Speaker has become a full time vocation. His authority and profile, as presiding officer, have been significantly expanded with the advent of the daily oral question period. Rulings of the Speaker during question period are not subject to appeal. The emergence of a full-time Hansard added to the responsibilities of the presiding officer when this agency was placed under the direct supervision of the Speaker. Given the fact that the last decade has witnessed the emergence of a polarized and fiercely partisan legislature, the presiding officer's role has become much more difficult. He is required to make more decisions, deal with many more bills and motions, consider many more alleged questions of privilege, rule on more points of order, supervise vast numbers of divisions, and deal with many cases of disciplinary actions. In short, a difficult job has become almost a herculean task. This situation was made that much more difficult due to the presence in the House of great numbers of new and totally inexperienced parliamentarians. In fact, this situation prompted Mr. Speaker Smith to organize and conduct an orientation course for new MLA's in early 1976.

In spite of the above developments the role of the B.C. presiding officer still differs in some respects to that of his counterparts in other Commonwealth juris-

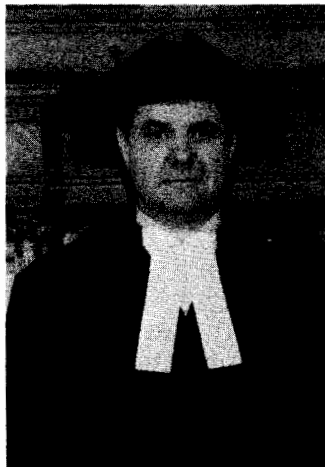
dictions. For example, the authority of the presiding officer is voided whenever the legislature is dissolved. This situation means that an incoming or outgoing Speaker has a hiatus in his administration, a period when he is technically powerless to act. As well, the salary of the Speaker is equated to that of the Leader of the Opposition and not equal to that afforded cabinet ministers. The rulings of the chair, outside of question period, are still subject to challenge and appeal. The presiding officer is relatively low on the official Table of Precedence. He is 14th in B.C., 8th in the U.K., and 5th in Ottawa. In addition to all this, the presiding officer is expected to be fairly tolerant in the frequently raucous environment of the legislative chamber.

MR. SPEAKER AS CHIEF EXECUTIVE OFFICER

The second major responsibility of the Speaker is to act as the chief executive officer of the Legislative Assembly in its administrative affairs. This part of the role of the Speaker is relatively new in British Columbia. In fact, arrangements for the transfer of this responsibility from the Deputy Provincial Secretary to the Speaker were commenced only after 1972. The complete relocation of administrative authority from the Deputy Provincial Secretary to the Speaker appears to have taken several years to finalize. Nevertheless, the Speaker is now the *de facto*, if not *de jure*, chief executive officer of the legislature.

Probably the most note worthy administrative accomplishment of the Speaker, as chief executive officer, has been the material upgrading of services and facilities for members. There has been a corresponding growth in the funding allocated for the operation of the legislature. For example, the total budget for Mr. Speaker in fiscal 69/70 was \$611,640. This budget, commonly referred to as Vote 1, was set at \$5,685,160 for fiscal 80/81. As the figures have escalated so have the provision of facilities and services for parliamentarians. For example, in 1970 there were no formal programme budgets for the Speaker's Office, Hansard operations nor caucus staff. By 1980, there were substantial programme budgets for all of these areas including provision for an ongoing legislative inquiry office established under the *Legislative Procedure and Practice Inquiry Act*. In 1970, the total funding for MLA's staff was \$16,440. By fiscal 80/81, \$840,700 was provided for legislative caucus staff and \$899,200 was provided for constituency office operations.

The increased budgets afforded to various facets of the operation of the Legislative Assembly were generally accompanied by increased jurisdiction for the Speaker. For example, after 1972, MLA's staff, both legislative and constituency, were provided and placed under the jurisdiction of Mr. Speaker. The same situation applied to Hansard staff. By 1976, the Speaker acquired a significant responsibility in the management of the Parliament Buildings including the assignment of office space and the co-ordination of an ongoing restoration programme. He became the sponsor of a legislative internship programme. In 1977, the Speaker took a more active interest in the financial affairs of the legislature. A larger comptroller's staff was acquired to service the House and a new computer based financial management reporting system was put into place. By 1978, the Speaker had established a Legislative Inquiry Office to house ongoing reviews of parliamentary procedures and practises. After 1978 MLAs were provided with new offices in the Parliament Buildings. These facilities came under the direct supervision of Mr. Speaker. By 1980 the Speaker was responsible, in co-operation with the Provincial Secretary and Minister of Government Services, for the management of the parliamentary precinct which includes the entire interior and exterior of the Parliament Buildings. On January 1, 1981, the Speaker appointed an Administrator to be responsible for day to day management of legislative services and to assist with long term planning and provide policy advice to the Speaker in administrative matters.



Hon. Dean Edward Smith
March 17, 1976-March 29, 1978

Photo courtesy of Special Services Branch, B.C. Ministry of Tourism

While a great deal of progress has been made in the provision and administration of services to members there are some areas that may merit further attention. For example, the administrative authority of the Speaker, as chief executive officer, has yet to be clearly defined in either statute law or in the standing orders. Since his administrative authority is technically nullified upon dissolution it is difficult, if not impossible, to make certain administrative decisions. The Speaker is not assisted by a management advisory body equivalent to a Board of Internal Economy or a Members Services Committee. There is no formal organizational structure to house all of the various legislative services.

However, on balance, this period has witnessed significant reforms in the organization and administration of the legislature. Speakers since 1970 deserve a great deal of credit for the very real improvement in the provision of facilities and services for both government and opposition members.

MR. SPEAKER AS PARLIAMENTARY AMBASSADOR

A third major component of the role of Speaker relates to his responsibilities in the external affairs of the legislature. In these matters, his role is analogous to that of an ambassador. Mr. Speaker is, in fact, a parliamentary ambassador in the relations between the legislature and all outside persons or equivalent institutions.

It would seem that B.C. speakers before 1972 were relatively inactive as parliamentary ambassadors. However, since 1972, successive speakers have taken a keener interest in the subject. They have become very personally involved in attending a wider range of interparliamentary conferences both in Canada and abroad. B.C. has been privileged to host two major interparliamentary conferences under the aegis of the Commonwealth Parliamentary Association. The first such conference was part of the 1977 plenary conference hosted by the Canadian Region. The second major CPA conference in this period was the 20th Canadian Regional Conference hosted by B.C. in 1980. In addition to the above activities, Speakers have been increasingly active in hosting growing numbers of visiting parliamentarians from many jurisdictions.

Speakers have also become active and enthusiastic supporters of various educational enterprises. For example, they have endorsed the activities of the British Columbia Youth Parliament and the Universities'

Model Parliament. The Speaker has permitted these groups to use the legislative chamber and other parliamentary facilities. Mr. Speaker Schroeder was keen to increase the frequency of public school tours of the Parliament Buildings and has articulated a policy that enables all students from grade 6 to 12 inclusive to visit the legislative proceedings. Speakers since Mr. Dowding have sponsored a legislative internship programme. This programme gives provincial university graduates, in disciplines most closely related to public affairs, an opportunity to gain practical experience in the administrative and legislative processes. This programme is currently in its sixth consecutive year of operation. Speaker Schroeder has directed that a public information programme be prepared on the Legislative Assembly with a view to providing better information on the structure and operation of the legislature. All of the above developments are new departures for Speakers in their roles as ambassadors of parliament.

While many improvements have taken place in the above areas, there are several other matters that may warrant future consideration. For example, the rank and file MLA's do not seem to have had many opportunities to become personally involved in interparliamentary relations. This situation would likely change if B.C. had an active branch of the CPA. Given the time and interest of parliamentarians in British Columbia some of these changes may be forthcoming.

MR. SPEAKER AS PARLIAMENTARY REFORMER

The fourth major component of the Speaker's role relates to his efforts in the matter of parliamentary reform. In many jurisdictions it would seem that this aspect of the Speaker's position is at best an informal or subordinate component of the job. The contrary has become true in British Columbia. The Legislative Assembly of British Columbia has provided a mechanism whereby its presiding officer can play a unique leadership role in pursuing the subject of parliamentary reform. The following discussion will detail the emerging role of the speaker as an advocate of parliamentary reform.

Prior to 1972 there was no formal requirement that the Speaker play a role in parliamentary reform. The constitution of the province of British Columbia did not consider the matter let alone suggest that the Speaker play a role in it. Nor did the standing orders of the House instruct the Speaker in this connection. In short, the Speaker was not expected to take any initiatives in

reforming the legislative process. Major change came in October of 1972 with the passage of the *Legislative Procedure and Practice Inquiry Act*.

In the explanatory note accompanying the above legislation, the newly elected government argued that:

The purpose of this Bill is to authorize the Speaker of the Legislature, or such other persons as he may appoint as a committee, to review, inquire into, and investigate the practice and procedures of the Legislative Assembly and its committees, with a view to modernizing all aspects of the conduct of the business of the Legislative Assembly and making its business more relevant and accessible to the public.¹

Under Section 1 the Speaker could act as a special commissioner to study a comprehensive list of parliamentary matters. Contrary to claims from some Opposition members at the time, the legislation did not give the Speaker the power to unilaterally change any aspect of the provincial legislative process. The Speaker was simply authorized to study the various issues, engage the staff he considered necessary, and prepare and submit a report to the legislature at the opening of each new session.

Generally speaking, despite the notes reservations, the bill was well received by all three opposition parties in the House and was quickly passed into law. Interestingly enough, in addition to obviously being government policy, the bill was of some considerable priority to the new NDP government. Premier Barrett was anxious to see Speaker Dowding bring in recommendations for parliamentary reform². It would seem that some of the underlying motivation behind the NDP government introducing the bill in their first legislative session relates to the long period they had experienced in opposition.

Robert Strachan, Minister of Highways and himself a former Opposition Leader, spoke passionately in support of the bill during the debate at second reading:

We simply have to make the system work and that's why this bill is before us today. It's a genuine effort on the part of this government to revamp the rules. To rewrite the procedures. To allow the fullest possible participation. To maintain the strength of responsible government and increase the responsibility of the individual member. And only by so doing can we restore that respect for politics which in turn will bring respect for politicians³.

This initiative was approved and equipped the Speaker with the statutory authority to fulfil a role as an

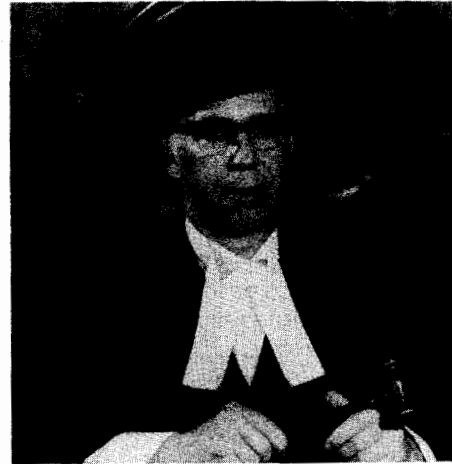
advocate in the matter of parliamentary reform. Passage of the act *per se* instituted a reform process.

Speakers, vested with the above legislative authority, approached the subject of reform from two perspectives. They utilized both formal and informal means for introducing change into the legislature. On the one hand, the formal efforts towards parliamentary reform are defined as those that were outlined in the six reports produced under the authority of the *Legislative Procedure and Practice Inquiry Act*. Implementation of some of the recommendations contained in the above reports was affected either by resolution of the House or legislation. On the other hand, the informally derived parliamentary reforms are defined as those agreements obtained by the Speaker on a more ad hoc basis.

Successive Speakers have used the *Legislative Procedure and Practice Inquiry Act* to authorize studies which to date have ranged across some thirty topics and produced no fewer than twenty-eight formal recommendations for parliamentary reform. Topics covered have been as diverse as the subject matter itself. For example, matters such as oral questions, broadcasting of proceedings, message bill procedures, prayers, adjournment times, procedures for non-contentious legislation, procedures for motions, the use of legislative committees, the imposition of time limits on debates, and immunities and facilities for MLA's have been considered in various reports. While this list is not exhaustive it provides some examples of the issues that Speakers have addressed.

It is worth noting that Speaker Dowding authored the first four reports. The fifth report commissioned under Mr. Dowding was written by Professor Edward McWhinney, an internationally acknowledged legal expert. Successive reports moved away from generating additional specific recommendations for reform to providing more of a discussion of the issues involved. All of Mr. Dowding's reports followed a similar format. Firstly, study and report on a number of specific matters. Secondly, the submission of formal recommendations including suggestion that the matter be referred to the Select Standing Committee on Standing Orders and Private Bills for further consideration and possible implementation by the House. In addition, Mr. Speaker Dowding used *ad hoc* committees of members, with or without supporting officials, for various investigatory assignments. For example, on April 22, 1974, Mr. Speaker Dowding appointed a Members Legislative

Facilities Committee consisting of twelve MLA's from all parties. This committee was charged with the responsibility of investigating nine areas of concern under fairly specific terms of reference. In due course a report was filed with the Legislative Assembly.



Hon. Gordon Hudson Dowding
October 17, 1972-October 7, 1975

Photo courtesy of Special Services Branch, B.C. Ministry of Tourism

Mr. Dowding was evidently prepared to adopt procedures from other jurisdictions when he became convinced that they would work in British Columbia. For example, he was anxious to introduce broadcasting into the House. In fact, he spent a great deal of his time on this single issue. Dowding, although apparently recognizing that the electronic broadcasting of the legislature could change the very fabric of the institution, seemed to be convinced that the public had a right of access to the proceedings. In any event, he took his role as an advocate for parliamentary reform very seriously. In this regard, it is interesting to note that his successors have each attempted to replicate, to one degree or another, his achievements in this matter.

Speaker Smith utilized the authority of the *Legislative Procedure and Practice Inquiry Act* to establish the MacMinn Commission on parliamentary reform. While it appears that the idea for the commission may have in fact originated with George MacMinn, then Deputy Clerk and Law Clerk of the Legislative Assembly, Mr. Speaker Smith seized this opportunity to engage an experienced professional parliamentarian to conduct a very useful study. Mr. MacMinn was also asked to prepare a B.C. parliamentary authority similar in nature

to Beauchesne's *Parliamentary Rules and Forms*. As well, he was asked to prepare a procedural handbook for the use of all MLA's. He was also encouraged to submit recommendations for amendments to the long outdated standing orders. Mr. Speaker Smith was warmly endorsed by several legislative leaders for his initiative in this regard. Ironically, he did not remain in office long enough to see his initiatives come to fruition.

Mr. Speaker Schroeder not only continued the work of the MacMinn Commission but decided to expand upon it. On October 24, 1978 Speaker Schroeder wrote to Mr. MacMinn and instructed him to conduct a major review of legislative committees.

In addition to those tasks already assigned to you under the Legislative Procedure and Practice Inquiry Act, it is my desire that you direct your attention to the broad structure of committees of the legislature. Please include in your studies all functions of committees, whether they be select or special or of the whole House, or of a statutory nature.⁴

Accordingly, on July 3, 1979, Speaker Schroeder tabled the first report of the MacMinn Commission on parliamentary reform, the sixth report produced under the authority of the *Legislative Procedure and Practice Inquiry Act*.

As indicated earlier, the Speaker has also played a role in introducing parliamentary reforms derived essentially on a more informal basis (establishment of a legislative intern programme, orientation courses for new members etc.). Most of these initiatives have become successfully integrated into the operation of the legislature despite the lack of statutory recognition. This situation is also further evidence of the efficacy of the leadership role of the Speaker as an advocate for parliamentary reform. Ironically, the informally derived reforms may have had an impact nearly equivalent to that of the more formally derived reforms since only about 30% of the formal recommendations produced under the authority of the *Legislative Procedure and Practice Inquiry Act* were ever implemented by the Legislative Assembly.

CONCLUSION

The legislative process in British Columbia is somewhat unique. Not until it moved into its second century of operation did it develop a dynamic two party system. As well, it took over 100 years for the legislative and executive branches to establish some independence each from



Hon. Harvey Wilfred Schroeder
March 29, 1978-present

Photo courtesy of Special Services Branch, B.C. Ministry of Tourism

the other. While it would be misleading to assert that a separation of powers between the legislature and the executive has developed it would be equally misleading to ignore the gradual emergence of the Speakership as an important figure within the legislative process.

The Speakership, since 1972, has in fact become a dynamic force within the legislature. Concomitant with this development has been the establishment of an advocate's role for the Speaker in the matter of parliamentary reform. Many precedents have been established in this regard since 1972. Predicting the future for the Speaker's role in the matter of parliamentary reform is impossible. On the one hand, it is very likely that Speakers will avail themselves of the authority at their disposal to improve the parliamentary process in British Columbia. On the other hand, the extent to which leadership in these matter is possible will be governed by the collective attitudes of parliamentarians in British Columbia.

NOTES

1. *Statutes of British Columbia* (1972) Second Session, Ch. 6
2. British Columbia, Legislative Assembly, *Official Reports of the Debates*, October 24, 1972, p. 305
3. *Ibid.* p. 195
4. Letter from Speaker Schroeder to George MacMinn and forming Schedule "A" of the *MacMinn Report*