



June 26, 2017

Honourable Steve Thomson  
Speaker of the Legislative Assembly  
Parliament Buildings  
Victoria, BC V8V 1X4

Dear Mr. Speaker:

May I first congratulate you again on your election as British Columbia's 38<sup>th</sup> Speaker of the Legislative Assembly. In these interesting times I know that all members of the Assembly derive great comfort from the knowledge that a colleague possessing your measures of integrity, fairness and thoughtfulness occupies the Speaker's chair of our parliament.

As you well know, the Assembly you now preside over represents the first in sixty-five years where a single political party does not command an absolute majority. The challenges associated with British Columbia's reintroduction to minority government have been further intensified given the slim margins that divide the parties that are represented within our newly reconstituted House. There has been much commentary regarding the ability of the House to function when it is divided along such narrow lines and a great deal of the speculation has focused upon the role the Speaker could be called upon to play in these historically unique circumstances. In offering this observation, I am inclined to agree with Clerk James' views, as expressed in the House last Thursday morning that many of the comments and opinions expressed have been entirely inaccurate.

Our Legislative Assembly is comprised of eighty-seven individual members. Twenty-seven of them are beginning their first term as an MLA. In a matter of days they will be called upon to make decisions that may ultimately determine the composition of the provincial government and influence the practical workability of that government. In advance of exercising their duties in this regard I believe it would be helpful for all members to have a thorough understanding of the rules and conventions that govern the operation of our Assembly particularly as they relate to the role of the Speaker in an Assembly that could end up being evenly divided on a functional basis. To this end, I believe members would be interested to receive your guidance on these specific procedural questions:

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**1. Speaker Obligated to Give Casting Vote**

The possibility that the Speaker could be called upon to cast a deciding vote in proceedings where the House is equally divided on a matter is specifically contemplated by Standing Order 10.

*#10 "Not to Join in Debate: the Speaker shall not take part in any debate before the House. In case of an equality of votes, the Speaker shall give a casting-vote, and any reasons stated by him or her shall be entered in the Journals."*

I have carefully reviewed the authorities on Parliamentary procedure to better understand the principles that would guide a Speaker in exercising his/her responsibilities pursuant to Standing Order 10. In this regard I have also had the opportunity to discuss the matter with the Clerks of the House of Commons in Ottawa who generously shared their views on this question. The summary contained at page 26 of *MacMinn's Parliamentary Practice in British Columbia, 4<sup>th</sup> ed.* would seem to accurately reflect the considerations that should guide a Speaker obliged to cast a deciding vote:

- (1) The Speaker votes for further discussion, where this is possible.
- (2) Where no further discussion is possible, decisions should not be taken except by a majority.
- (3) The casting vote on an amendment to a Bill should leave the Bill in its existing form.

I note a similar summary of the conventions that have guided the application of a Speaker's casting vote appears in the *House of Commons Procedure and Practice 2<sup>nd</sup> ed. pg. 316* and various editions of *Erskine May – Parliamentary Practice*.

An application of these basic and longstanding parliamentary principles would logically lead to the following propositions:

1. Confronted by a tie vote at 3<sup>rd</sup> Reading on a Bill that is not a matter of confidence, the speaker would be obliged to cast his/her deciding vote against the Bill.
2. Confronted by a tie vote on a Motion before the House seeking to amend our Standing Orders the Speaker would vote to maintain the status quo by voting against the Motion.

I believe it would be helpful for all members of our House to receive a definitive statement from our Speaker confirming the rules and conventions that would guide the Speaker in these scenarios that are by no means speculative given the present alignment of the House.

**2. Speaker – Debates in Committee**

There has been some public discussion concerning the Speaker's ability to participate in the proceedings of the Committee of the Whole or Committee of Supply. The most definitive statement I have found on this question is contained in *MacMinn 4<sup>th</sup>. ed. pg. 24* where he writes:

“...there seems to be little doubt today that the accepted practice is for the Speaker not to take part in Committee debates. In any event, he or she never votes in the divisions in the Committee. (*Bourinot, p. 168.; H. of C. Procedure and practice 2000 ed. pp. 267-268*).

Similarly, our Standing Orders appear to specifically contemplate a member other than the Speaker to act as Chair of the Committee of the Whole and Committee of Supply. I am unaware of any example of the Speaker acting as Chair of the Committee of the Whole or Committee of Supply here in British Columbia. The idea that the Speaker could act as Chair of either Committee on an ongoing basis is certainly inconsistent with parliamentary practice and the spirit and intent of our Standing Orders. This question is also considered in the *House of Commons Procedure and Practice 2<sup>nd</sup>. ed. at p. 921*. I also note that Standing Order 15 is complimentary to section 41 of the Constitution Act. At Westminster any ambiguity on this issue is seemingly resolved by Standing Order 66 where it is stated:

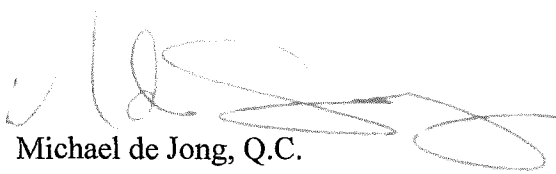
*#66 – “Committee of whole House on Bill”: Whenever an order of the day is read for the House to resolve itself into a committee on a bill, the Speaker shall leave the chair without putting any question, and the House shall thereupon resolve itself into such committee....”*

Once again I believe that all members would benefit greatly from a statement clarifying any ambiguity or confusion that may exist regarding our Standing Orders and the role of our Speaker with regards to the aforementioned Committees. In the days ahead members will be voting on questions that are fundamental to determining the course of government in British Columbia.

I believe that each duly elected member would benefit greatly from receiving a clear and authoritative description of the rules and precedents that would guide a Speaker in the exercise of his/her responsibilities in each of the circumstances outlined above.

Subject to any concerns you may have it would be my intention to table a copy of this letter in the House. I thank you in advance for your attention to these questions and for any guidance you are able to afford to all members of the House.

Yours truly,

A handwritten signature in black ink, appearing to read 'Michael de Jong', written over a light blue horizontal line.

Michael de Jong, Q.C.  
Minister of Finance and  
Government House Leader

pc: Craig James, Clerk of the House