

Point of Order—Mr. Nielsen

decision, she did so on the basis of the advice of representatives of the Government and the Opposition who had informed her that a vote would not take place before the next morning. On that basis, where it was clear that the bells would be left to ring all night, it might reasonably be argued that the situation was akin to disorder, although my personal view is that that somewhat stretches the credulity of Members as well. Furthermore, if the practice of allowing the bells to ring all night were to become a standard practice, there might be some doubt arise in some Members' minds that that would be akin to grave disorder. However, such is not my submission because in my view it is irrelevant to this particular caveat I am drawing to the attention of the House with respect to our proceedings yesterday.

The motion moved by the Government which was before the House yesterday was the previous question. This motion was moved as means of closing down debate on second reading of Bill C-9. If it was carried in the affirmative, which it was yesterday—today—the motion would have the effect of bringing on an immediate vote on the second reading, which it did yesterday—or this morning. The argument does get a little ridiculous as we proceed with it!

Standing Order 12(1) is quite explicit as to how the division is demanded and how it is taken. The key word in the Standing Order is the word "demanded", in my view. The holding of a recorded division is not something which is to be taken lightly. It is a right which can be insisted upon by any five members who choose to rise in their places. The division is only completed once the actual recorded vote has been taken and the result has been announced by the Chair, as outlined in Citation 216 of Beauchesne's Fifth Edition. Indeed, that is the only way that the proceedings of yesterday could have been brought to a close yesterday, in which mode we found ourselves this morning. That was by those two votes being taken. The division was not complete until that time.

As well, Citation 217 states that "the signal for taking the division is the return of the Government Whip and the Opposition Whip". In other words, the timing of the vote rests entirely with the Whips. This is appropriate because a division is an expression of the will of the House and not of the Chair.

It is therefore a matter of deep concern for me, to believe that this process can be arrested part way through by the Speaker or anyone else. The practice which has grown up around the lapsing of dilatory motions, for example, has the effect not only of relieving Members of their right to express themselves once a recorded division has been called, but also has the effect of potentially reversing the decision reached by the initial voice vote. This takes place not at the initiative of Members but as a result of a decision by the Chair. Needless to say, this practice might some day lead to grave consequences which occupants of the Chair might live to regret. What would happen, for example, if a procedural motion in support of a decision by the Chair were allowed to lapse?

By tinkering with the established practices governing divisions, the House is entering very dangerous territory. Certainly, attributing a decision to the House when no vote has been

taken is fraught with danger; but so, too, is arbitrarily delaying the taking of a division. Such a delay may very well cause numbers of members on either or both sides of a question to change, either because the Opposition or, more importantly, the Government has had the opportunity to round up more of its Members or dissuade Members from taking an independent line. The Speaker, by making the decision to delay the holding of a recorded division, opens himself or herself to the charge that the decision was made on a partisan basis. As you will appreciate, Mr. Speaker, such a change in role of the Speaker would seriously undermine the stature of the office and would undermine the confidence that the House has in the impartiality and independence of the Speaker.

While no one would suggest that this is what happened in this instance—I the first among them—I felt that it was important to put these remarks on the record and ask the Chair to consider the direction being taken in recent rulings in order to determine whether or not they are truly in accord with the spirit of our rules in this place.

I raise this matter because of the concern that I had when it first occurred in May of 1983, and that circumstance was during the disposition of a dilatory motion. But last evening we were dealing with a substantive motion, so the matter becomes even more important down the procedural road as to whether or not we are following a wise course in embarking upon what I conceive to be an entirely different direction from established practices set by the rules and by the precedents of this place.

• (1520)

[*Translation*]

Hon. Yvon Pinard (President of the Privy Council): Mr. Speaker, I think it is important to make a distinction between the power of the Speaker to delay a vote and his power to order that a vote be taken.

Regarding the authority of the Speaker to order that a vote be taken at a given time, I think such cases are defined either by the Standing Orders or by Parliamentary practice as it has evolved in recent years. S.O. 12(2) indicates clearly that when the Speaker interrupts the proceedings, the bells shall be sounded for not more than fifteen minutes.

I feel, within reason, of course, that in such circumstances the Speaker must be stricter than if the debate ends spontaneously, as was the case yesterday.

I remember that Speaker Jerome made this distinction when he interpreted former S.O. 9, now S.O. 12. He said that S.O. 9(2), which is now S.O. 15(2), allowed him to demand that the vote be taken after fifteen minutes, provided he had interrupted the proceedings and the Members had received reasonable notice that the proceedings would be interrupted, thus safeguarding the principle that basically, Members should not be taken unaware, and I think his interpretation was a wise one. However, in certain cases, although S.O. 9(2) or 15(2) said that a vote had to be taken after fifteen minutes, Speaker Jerome was often more patient than that before demanding