

*House of Commons Procedures*

factorily over a period of years, then some future parliament could decide whether or not further improvements could be made so as to guarantee the impartiality of the Speaker and the appearance of impartiality, which is just as important as the impartiality itself.

• (4:40 p.m.)

The second objection I have to abolishing appeals from the Speaker's rulings concerns not only the matter of bias which may be attributed to the Speaker but also the question of errors of judgment. No individual is infallible. No Member, no matter how conscientious or how scrupulous he may be, can guarantee that he will always be right. The rules of this House are exceedingly complicated and in the final analysis the man in the Chair has to make a decision. He must interpret those rules on the basis of precedent; he must analyse the situation before him and reach a decision.

It is quite conceivable that the decision will be wrong. The difficulty is that not only will that wrong decision work an injustice at the time but, even more serious, it will become a precedent upon which other decisions will be based in the future. In parliament we build up a series of precedents, as we do in the common law, and one erroneous decision could start a whole trend of decisions which could not be reversed and could have very unfortunate results.

I think there is a half way ground between what the Government is proposing and the amendment just defeated which sought to amend paragraph 2 so as to permit appeals against the Speaker's rulings. The middle ground was referred to yesterday by the hon. Member for Edmonton West and it is also contained in the brief which was prepared for the Committee on Procedure by Professor Denis Smith of Trent University. I will read only a couple of paragraphs which I think set forth the proposal in fairly succinct terms. He says:

The Speaker, however, may sometimes make mistakes in applying the rules, and occasionally invites appeals on this ground. On February 24, 1965, Mr. Speaker Macnaughton admitted the possibility that "even the Chair is perhaps in the position sometimes of making an error," and invited an appeal against his ruling that a *prima facie* case of privilege had not been made by Mr. Douglas. The decision was appealed, and the Speaker's ruling was reversed. The simple abolition of appeals would provide no recourse for the House against patently mistaken rulings, except the extreme recourse of a substantive motion of censure.

An intermediate measure of reform might provide that an appeal could only be made by substantive

[Mr. Douglas.]

motion accompanied by the citation of authorities and precedents in writing, and that such an appeal would be referred automatically by the House either to the Committee on Privileges and Elections or to the Committee on Procedure, if it were to become a standing committee. The appropriate committee would examine the merits of the appeal, and report to the House, which would act upon the recommendation of the committee to sustain the ruling or to allow the appeal. This deliberate and formal procedure would eliminate most nuisance appeals, but would permit legitimate appeals based upon careful study of the rules.

I want to commend to the Committee consideration of the point put forward by Professor Denis Smith. It is absurd for us to begin with the assumption that a Speaker, no matter how fair, no matter how impartial, no matter how learned, will never make a mistake. If we abolish appeals from the Speaker's rulings we are left with no alternative but to move a motion of censure, and I submit, Mr. Chairman, there are many instances where one disagrees with the Speaker on a matter of law or on the interpretation of the rules of the House, but where one would certainly hesitate to move a motion of censure which calls in question not just his judgment but his integrity.

It seems to me that this middle ground of having a standing committee on procedure to which an appeal could be referred is a good idea, not so much for the purpose of rectifying an immediate situation but to prevent the establishment of a precedent which could lead to great misunderstanding later. I think the proposal made by Professor Denis Smith is worthy of the Committee's consideration. I believe that abolishing appeals completely is going too far. I am quite willing to admit that there have been abuses and there ought to be some restriction on the right to appeal, but to leave Members no recourse when they disagree with the Speaker except to move a motion of censure on the Speaker seems to me not to be the essence of wisdom. Therefore I move:

That the proposed new Standing Order 12 (1) be amended by changing the period at the end thereof to a comma, and by adding immediately thereafter the following words: "provided, however, that an appeal on a substantive motion, accompanied by the citation of authorities and precedents, may be submitted for study to a special committee to be appointed for that purpose."

**Mr. Pickersgill:** Mr. Chairman, I should like to say a word about this amendment. When the hon. Member for Edmonton West spoke about this procedure, which if I remember correctly I think he said is followed in the West German Parliament, it did seem to me that the general idea had a certain amount