

## POINT OF ORDER

MR. NIELSEN—SUSPENSION OF DAY'S SITTING

**Hon. Erik Nielsen (Yukon):** Mr. Speaker, I rise on a point of order.

**An Hon. Member:** Leader!

**Mr. Nielsen:** It is a little late for that! Mr. Speaker, I indicated to you this morning that I intended to raise a brief point of order at three o'clock having to do with the proceedings last night, this being the first opportunity to do so.

By way of a preliminary I would like to refer to today's *Order Paper and Notices* for Tuesday, March 20, 1984. As you know, Sir, at six o'clock last night we were in a mode where tomorrow never came. Yet overnight we had the Notice Paper printed as though we were in fact going to see tomorrow, which is today. In the meantime, we have the hour of meeting printed on the Order Paper as being 11 a.m. Today did not occur, in a parliamentary sense, until considerably after 11 a.m. I did not take note of the precise time the Chair moved into prayers, but it was around 11.30. I think that should be corrected.

Shortly after six o'clock last night, Mr. Speaker, you rose in your place to say that you were suspending the sitting until 9 a.m. this morning. The suspending of a sitting overnight in the midst of a division is almost without precedent, Mr. Speaker. The suspension of a sitting under such circumstances without the full agreement of Government and Opposition House officials is entirely unprecedented and is a practice about which I have very serious reservations.

The last and only time in my recollection that the Speaker decided to suspend a sitting overnight in the course of a division occurred on May 9, 1983. At that time *Hansard* records that the question before the House was a motion for leave to introduce Bill C-155. The question was put and the Speaker is recorded at page 25288 of *Hansard* as declaring that the Yeas had it. More than five Members having then risen, Madam Speaker called in the Members for a recorded division. *Hansard* next records that at 10.40 p.m. the Speaker rose and said the following:

MADAM SPEAKER: I have been advised that the Members are prepared to vote tomorrow morning. I now suspend the sitting until nine o'clock tomorrow morning, at which time the bells will start ringing again. They will be interrupted tonight.

MR. PRUD'HOMME: At what time?

MADAM SPEAKER: At nine o'clock the bells will begin to ring.

At 10.40 p.m. the sitting of the House was suspended.

You will note, Mr. Speaker, that Madam Speaker Sauvé only took the action of suspending the sitting once she had been advised that Members would only be prepared to vote the next morning. In my submission, it is only upon the advice of the representatives of the Government and Her Majesty's Loyal Opposition that the Speaker may justifiably suspend the sitting of the House.

I base my contention on the fact that nowhere in the various procedural texts which relate to our proceedings can reference

*Point of Order—Mr. Nielsen*

be found to any authority possessed by the Speaker which would permit the occupant of the chair to suspend a sitting at whim. Indeed, taken at face value, there would seem to be no provision in either the Standing Orders or Beauchesne's which would permit the Speaker unilaterally to suspend the sitting under any circumstances. However, the Standing Orders do state that in unprovided cases the rules should be interpreted in light of relevant practices at Westminster.

With that in mind, one can look at the Twentieth Edition of Erskine May and discover that in certain instances the Speaker does have the authority to suspend the sitting. What are those cases, Mr. Speaker? The answer to that question can be found at page 317 of the Twentieth Edition of Erskine May under the heading of "Adjournment in case of grave disorder". That entry reads as follows:

Adjournment in case of grave disorder. In the event of grave disorder arising in the House, the Speaker may adjourn the House without question put if he thinks it necessary to do so or he may suspend the sitting for a time to be named by him.

I am not suggesting, Sir, that a grave disorder is a Member passing between a Member on his feet speaking in debate and the Chair, although that occurs frequently. Nor am I suggesting that it is a grave disorder, though it be a disorder, for Members to rise and leave this Chamber while the Mace is on the shoulder of the Sergeant-at-Arms and while the Speaker is on his way of the Chamber. The proper conduct, of course, is for Members to stay in their places until Mr. Speaker departs. Those are not examples of grave disorder, but they are disorders. Some examples, as I have said, are given in May.

However, May does not outline any other set of circumstances under which the Speaker is permitted unilaterally to suspend the sitting of the House. To use this entry in Erskine May as authority for the action undertaken by the Chair last evening would, I think, stretch the credibility of Members of the House. Fortunately, Mr. Speaker, earlier editions of Beauchesne's include the same reference to the Speaker's authority to suspend the sitting in the event of a grave disorder.

Therefore, on balance, Sir, it would appear that the action undertaken by the Chair last evening has at least some procedural standing in the Canadian House of Commons. Certainly, based on the May, 1983 precedent, one cannot argue that similar actions have never been undertaken before.

However, there are two issues which remain to be resolved. I re-emphasize that in the May, 1983, instance where was a prior agreement which was communicated to the Speaker with respect to the time of the taking of the vote. As I say, two issues remain to be resolved. Is this case in fact similar to the May, 1983 precedent? And even if it is, did the Speaker make the correct decision at the time?

● (1510)

It is not for me to question the past actions of the House nor to impugn any decision of the Chair. But using the May, 1983 decision as a stepping stone, I believe I can draw a distinction between the decision made by Madam Speaker Sauvé and the one made last evening. At the time Madam Sauvé made her