

House of Commons

any action on my part would be incompatible with my concept of the responsibility of the Speaker to the House. In support of this view I would like to quote Josef Redlich, an expert on parliamentary procedure, who said:

● (1510)

[English]

The modern president of the House of Commons, . . . is a judge who has to apply the rules of procedure to the best of his ability and with perfect impartiality, maintaining with a firm yet sensitive hand the proper relations between the two parties to the proceedings before him, the majority and the minority; he must do so by maintaining the rules and the usage of centuries, and by taking care that both majority and minority are unimpeded in their use of the forces and the weapons which the order of business provides for strong and weak.

[Translation]

I was therefore faced with duties and responsibilities that seemed to be at odds in most respects. References have been made here and there, and mostly in the press, to precedents that had no bearing on the present situation. First the situation in 1961, when one of my predecessors, Mr. Michener, did not let the bells ring for even as long as an hour before he sent a message to the whips ordering them to enter the House for a division. There was no parliamentary crisis, it would seem. There is no reference in *Hansard* that sheds any light on the circumstances of the incident, and no one, not even Mr. Michener, can remember why the whips were late. Upon receiving the Speaker's message, they entered the House, and no questions were raised by any one. Who can tell whether this precedent, if it is one, is valid? What would my predecessor have done if the whips had refused to come and vote?

Another important precedent has been cited this time, from the British House of Commons. It relates to the occasion when Mr. Speaker Brand terminated a debate on his own initiative after it had continued for 4½ hours. It took place at a time when the Irish Nationalists had some 60 members. There were then no time limits on debate and the use of closure was unknown. The Irish Nationalists had employed obstructive tactics over a long period designed to bring the process of government to a standstill. The Speaker put the question, but only after consultation with the Prime Minister and the Leader of the Opposition and with their joint support. I could not see that similar circumstances existed in Canada in 1982 and, therefore, felt the intervention of the Speaker could not be justified.

What would have been the consequences of an arbitrary decision that did not derive from any of the rules approved by this House nor from a precedent with any relevance to the present situation? It would have meant breaking with an age-old practice that has proved its worth. How can the Speaker make sure that all members available to take part in the division are in the house? Is it the responsibility of the Chair or the whips? What would prevent the Speaker from setting the time of the division in other circumstances? The Chair would have set a precedent that might create even greater confusion in the case of a minority government.

[English]

In any event, such action on my part would have been open to allegations of partiality. Clearly, the Speaker must at all times be impartial. If, for example, the Chair had sacrificed itself in order to get the House back to work, would this have saved the House? And in the circumstances, would the House have agreed with the new precedent that I would have created? It was a question I had to ask myself.

The authority of the Chair is no greater than the House wants it to be. When the rules are clear and offer precise guidance to the Speaker, the authority of the Chair is absolute and unquestioned, for this is the will of the House. On the other hand, when there are no rules to fall back on, the Speaker must proceed very cautiously indeed. The most the Chair can do is to lay the matter before the House which can then itself create a new precedent. Again I quote Josef Redlich:

It is no part of (the Speaker's) office to consider how he may use his power to devise new reins or bridle for the House. The guiding principle is that the Speaker is not the master of the House, but its representative . . . He must always be sure . . . in making any change of practice, that he is in accord—

Here I refer to the precedent in Great Britain.

—with the average opinion of the House. . . . And . . . when precedents are not conclusive, the Speaker is to lay the matter before the House for decision.

If the last ten days have taught us anything, it is that we must review our parliamentary procedure.

Some hon. Members: Hear, hear!

Madam Speaker: The Speaker is the guardian of the rules of the House. He does not invent them. It is up to the House to decide what changes are necessary. I merely point out that there is a problem. In the meantime, the Chair will continue to be vulnerable until the House provides it with guidelines which would lead to settled practices regarding those very difficult and highly controversial questions, where the rules and practices appear to be less than satisfactory.

If the indefinite delaying of a division is to be taken as a new precedent, it could be used again to oppose indefinitely any business that happens to be before the House. In addition, it is a tactic that could also be used by the majority if it suited their purpose. I question whether it is the will of the House that such a precedent should become enshrined in our practices. The rules by implication assume that the procedure of voting will be completed when members are called in. Today, we all know that the procedure must be spelled out more clearly, since the House cannot function satisfactorily while debate may be interrupted indefinitely by any of the parties. I say this in no sense of criticism but as a statement of fact. I may point out that obstructive tactics are allowed by the rules. However, their use must be regulated so as to safeguard the government's right to have the House consider its order of business and the equally important right of the opposition to criticize, oppose and even obstruct a government measure.

Again, I quote Redlich:

Protection of a majority against obstruction and protection of a minority against oppression are both alike functions of the Chair. It is hardly too much to