

Speaker resumed the Chair and ordered the Sergeant to do his duty.

The House in that case was in Committee of the Whole and the Speaker resumed the Chair, and so we have the authority of 1675 confirmed in 1810. The hon. member for Pictou, of course being a lawyer, knows that courts are governed by precedent and authority, and let me ask the hon. gentleman if he can cite any authority reversing these two decisions?

Mr. MACDONALD: What about Sir Erskine May's own statement as to that case, and what about his statement as to the following case in the same book?

Mr. AIKINS: The hon. gentleman has practiced law for a long time, and when he is citing authorities to the judges of the bench he does not cite the text books, but the decided cases?

Mr. MACDONALD: It depends upon what is the principle.

Mr. AIKINS: As I understand it, the judges living in that part of the country in which I have practised follow decided cases, not text books.

Mr. MACDONALD: Does my hon. friend say that in his province the judges take cases in preference to legal principle?

Mr. AIKINS: The judges take the decided cases if they have not been reversed, rather than the comments of text writers, as fixing principles. These are the cases, and the comment of May, that the incident has not been repeated, is an error, for the established authorities show that he is mistaken, for the case of 1675 was repeated in 1810 and confirmed. I challenge the hon. gentleman to show any case or place where these decisions have been reversed. If he can show us we will of course bow to such decisions, but there are none. Then, not only according to the inherent authority in the Speaker, but by virtue of these precedents, Mr. Speaker was perfectly justified in resuming the Chair as he did.

Mr. MACDONALD: How does the hon. gentleman get away from rule 14?

Mr. AIKINS: We have the precedent I have cited; we have the inherent authority of Mr. Speaker, which was simply confirmed by rule 5, and now we come to rule 14, which is interesting:

14. The Chairman of the Committee of the Whole House shall maintain order in the committee, deciding all questions of order subject to an appeal to the House; but disorder in a committee can only be censured by the House, on receiving a report thereof.

The hon. gentleman from Pictou has referred to the authority of Redlich and I quote from that author on page 198 where,

speaking of the Committee of the Whole House, he says:

The procedure as the name implies consists in the House regularly in one matter after another appointing itself a committee so that though no physical alteration is made in the deliberative body its legal character is changed.

I quote another sentence at page 200:

The procedure in committee is the same as that of the House, except on three points: no seconder is required for a motion; the previous question cannot be moved, and members are not confined to one speech on each question.

If these were the only exceptions, the Committee of the Whole House could censure a member if he violated the rules of the House, but rule 14 adds another exception and takes that authority to censure away from the committee; and so the latter part of this rule says:

But disorder in a committee can only be censured by the House.

In other words, that the committee cannot censure disorder, but the House alone can, and to that extent the powers of the committee are limited. That is the purpose and intention of this particular rule 14. The House alone can censure, and the only way in which the House can have knowledge of what is done in the committee for the purpose of censuring, is by report from the committee.

Some hon. MEMBERS: Hear, hear.

Mr. AIKINS: I like to hear hon. gentlemen say 'hear, hear,' because it shows they are following and approving my argument. So that, if the Committee of the Whole is about to censure any member, or if the Chairman of the Committee of the Whole is about to censure any member, then the Chairman should report to the House and let the House censure. But what were the facts on the occasion we are discussing? The Chairman of the Committee of the Whole was not about to censure any member; but, standing in his place, was simply about to give his ruling on a point of order, and therefore section 14 does not apply at all. Consequently, as it does not apply at all, and is not in point, it is entirely outside the argument and inapplicable to the case.

Mr. EMMERSON: What about this part of rule 14:

The Chairman of the Committee of the Whole House shall maintain order in the committee, deciding all questions of order subject to an appeal to the House.

Mr. AIKINS: The question is academic, for, supposing the Chairman is not able to keep order, what is to be done? That is a subject that is not provided for by rule 14.