

Privilege—Mr. Kaplan

Mr. Kaplan: —that you should have regard to British precedent. Our rules of procedure provide under Standing Order 1:

In all cases not provided for hereinafter, or by other Order of the House, procedural questions shall be decided by the Speaker or Chairman, whose decisions shall be based on the usages, forms, customs and precedents of the House of Commons of Canada and on parliamentary tradition in Canada and other jurisdictions, so far as they may be applicable to the House.

The use of closure is almost unprecedented in Canada.

Mr. Lewis: You have brought it in.

Mr. Kaplan: It is not entirely unprecedented and its use may be legitimate. It is used quite commonly in Great Britain so I want to suggest that we should be guided by British precedent, where the experience is greater, in the use of closure motions.

I would like to draw your attention to page 452 of *Erskine May* which covers the question of closure and indicates there is a role for the Speaker. The intervention of the Chair regarding closure is restricted to occasions when the motion is made in abuse of the rules of the House or infringes the rights of the minority. In deciding whether, given the importance of the subject, the amount of time already occupied by the debate is adequate, the Chair is guided by certain considerations. The considerations are set out there.

I want to put before you the considerations I urge you to apply in deciding on the illegitimacy or premature use of closure, and I want to refer to statements made by the Government House Leader and the Parliamentary Secretary on the subject on which closure is being imposed, that being the reinstatement of capital punishment.

When the subject was introduced on February 13, 1987, the Deputy Prime Minister (Mr. Mazankowski) said at page 3413 of *Hansard*:

The intent behind the motion is to permit a full parliamentary debate to be concluded by a free vote on the capital punishment issue.

That is the characterization the Government gave with respect to the motion relating to capital punishment. The Government House Leader went on to say he wanted an open debate:

This issue is a matter of national importance and one that a majority of Canadians want Parliament to consider. It should be debated openly and voted upon in a free manner without impeding the independence of Members of Parliament.

On February 2, 1987, at page 3000 of *Hansard*, the Minister's Parliamentary Secretary said:

—I submit that in any debate about capital punishment the process by which the debate proceeds is vital to a full and fair resolution of the issue.

At the same time he said:

Every Member of the House, no matter what is his or her position on the issue, owes it to society to debate the issue on as high a level as possible.

What have we had from the Government in the way of debate?

Mr. Lawrence: Opposition delays.

Mr. Kaplan: We have had delays, the Member opposite says. We have had four days of debate, and the last day was interrupted. We have had only 20 speakers. I would like to recall for you that in 1976, when the abolition of capital punishment was debated, it went on for 30 days with 120 speakers.

Mr. Lewis: And 20 hours on second reading.

Mr. Kaplan: On second reading we debated for 21—

Mr. Speaker: Just a moment. Along with some other Hon. Members, I was here not only for that debate but for an earlier one. The Hon. Member refers to British practice. I think there were two debates on capital punishment in the British House of Commons in recent years and I wonder if the Hon. Member could tell me how many days those debates lasted? If one is to borrow willy-nilly from other practices, I am not so sure that that particular argument helps the Hon. Member.

The difficulty the Chair is in is this. The Hon. Member referred to a ruling I made on April 14. The circumstances were that there had been the use of procedural tactics for an extended period of time which the Chair felt, for much of that protracted period of time, were by and large justified given the importance that some Hon. Members placed on that particular matter. However, that ruling was to try and find a way through the unenviable position in which the Chair found itself, not having any clear direction from the House with respect to the Standing Orders.

I draw to the attention of the Hon. Member Standing Order 57. I do not rise to remind the Hon. Member of this because I am in disagreement with what he has been saying as to the number of days needed for a debate on this vital matter. That is not the issue. The issue is that the Hon. Member has raised a question of privilege and says one side has no right under these circumstances at this time to move a motion according to a rule which is clearly and succinctly set out. It says this:

Immediately before the Order of the Day for resuming an adjourned debate is called, or if the House be in Committee of the Whole, any Minister of the Crown who, standing in his or her place, shall have given notice at a previous sitting of his or her intention so to do, may move that the debate shall not be further adjourned—

I understand that notice has been given. What will flow from that notice I do not yet know. However, the Hon. Member is objecting to the fact that notice has been given under the Orders. It is very difficult for the Chair, no matter how sympathetic it may be to the argument the Hon. Member is putting forward, to be able to entertain extensive argument on the thesis that somehow or other an Hon. Member's privileges have been breached by the implementation of a Standing Order by another Hon. Member or, in this case, the Government.

• (1020)

The Chair is not altogether ingenuous in this matter and understands fully the point the Hon. Member is making. I am