

PREFACE

In fact, during and shortly after the Civil War, the minority party in the House had what amounted to the power to obstruct legislation entirely. This was permitted at that time on the theory that on great questions the wisdom of the few should be permitted to thwart the rashness of the many. However, Speaker Reed, in 1890, nullified this power of the minority by the enunciation of the principle that the processes of a legislative body may not be used to destroy its powers; and since that time the minority has been remitted in the House to its historic functions.⁽²⁰⁾

Although each Member has the right to be heard, the membership has the right to restrain any individual from abusing the privileges accorded by the rules. It is the function of parliamentary procedure to encourage or permit a thorough discussion, and yet still preserve harmony within the group and ultimately to take definite action.

A Member of the House has a right to vote and to otherwise participate in legislative proceedings, but in other respects the individual Member must yield to the whole House in expressing the national will.

Need for Publication

The publication of the precedents of the House has tended not only to expedite the routine business of the House, but has also affected its conception of parliamentary equity and, indirectly, its prestige as a branch of government. Among other advantages to be derived from the publication of the House precedents, the saving of time alone will be invaluable. I can remember instances in which as much as a half hour or more was spent in debate on a question of House procedure. Clarence Cannon estimated that prior to the publication of the precedents in 1907, a third of the time of the House was consumed in discussions of purely procedural matters. Most such questions had come up in prior sessions and had been authoritatively decided. But in the absence of the precedents in published form, former decisions were forgotten, and the same questions were again lengthily debated. The publication of the precedents has thus not only reduced the number of points of order that are presented, but also avoids unwarranted and time-consuming excursions on purely procedural questions.⁽²¹⁾

A more significant benefit to flow from the publication of these volumes is that they provide Members with the tools to

20. 1 Hinds' Precedents at p. iv.

21. 6 Cannon's Precedents at p. v.

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become more effective legislators. The axiom that knowledge is power applies with special pertinence to the awareness of Members of the parliamentary procedures needed to expedite House business. In the past, the older and more experienced Members have held an obvious advantage over the younger Members who had not yet mastered the necessary parliamentary skills. The publication and distribution of the precedents makes the knowledge of parliamentary techniques accessible to all Members.⁽²²⁾

Asher Hinds considered it a national necessity that the powers and privileges of the House and its Members be preserved, and believed that there was no surer way to that end than perfect information on the part of every Member of the House as to the extent of those powers and privileges. He believed that the precedents should be published and classified in such a way that they would always be clearly before the membership. If the prerogatives of the House were well understood, he wrote, other branches of government would be less likely to encroach on them; and if there was encroachment, it would be more likely to be met with promptness, intelligence, and firmness.⁽²³⁾

What Constitutes a Precedent

The precedents of the House fall into three main categories: (1) the rulings or decisions of the Speaker or Chairman, which are generally made in resolving a point of order or parliamentary inquiry; (2) the decisions or conclusions, express or implied, which emanate from the House itself without objection

22. Asher Hinds, in his introduction to his work on the precedents of the House, commented on the desirability that the knowledge of the precedents extend to all Members: "In the House of Representatives, as in other legislative bodies, the memories of the older Members, as they might be corroborated by the journals, had been the favorite and most readily accessible repository of the precedents. . . . It is manifestly desirable, on the floor where high interests and great passions strive daily, that the rules of action should be known definitely, not only by the older Members, but by all. Not only will the Speaker be enabled to make his decisions with more confidence and less fear that he may be swayed by the interests of the moment, but the Members, understanding the rules of his action, will sustain with commendation what they might have criticized with asperity." 1 Hinds' Precedents at p.iii.

23. 1 Hinds' Precedents at p. iv.