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special rules.⁽¹⁴⁾ Thus, the precedents may be viewed as the “common law,” so to speak, of the House, with much the same force and binding effect. Of course, the Speaker is not required to follow precedents blindly or mindlessly. In fact, the Speaker or Chairman may refuse to follow a precedent even though it is relevant to a pending question, where it is the only precedent on the point, and was not carefully reasoned.⁽¹⁵⁾ In the main, however, parliamentary probity in the House is now looked upon as a matter of inherent right rather than a privilege subject to political exigencies, and as a science rather than an improvisation varied at the discretion of the Chair.⁽¹⁶⁾

Historically, the House has resisted efforts by a Speaker to act arbitrarily and in disregard of its precedents and procedures. In the last years of the 19th century, the powers of the Speaker grew to a point where they approached absolutism. Entrenched behind the power to appoint committees, and with authority to extend or refuse control of the floor, the office of Speaker came to be regarded by some as more powerful even than that of the President of the United States. The reaction of the membership of the House against this ascendancy of the powers of the Speaker came quickly. “Almost overnight” wrote Clarence Cannon, “the slowly accumulated prerogatives of the great office crumbled. Within three short years (1909–1911) a bipartisan revolution swept away every vestige of extrajudicial authority.” The Speaker’s power of recognition was circumscribed; the motion to recommit was restored to the minority, the election of committees was lodged in the House, the reference of bills to committees was standardized, and the determination of legislative policies and programs was delegated to party caucuses. This wave of reform culminated in the wresting of control from the Speaker, with ultimate authority passing from the Chair to the membership.⁽¹⁷⁾ This relationship between the Members and the Speaker has been more than maintained since the turn of the century. Today, the office of the Speaker is judicial in character. The decisions of the Speaker are judicial and mediatory rather than polemic and partisan.

Comparative Rights

On analysis, the rules of parliamentary procedure will be seen as an attempt to strike a careful balance between the var-

14. Parliamentary *law* has been defined as “the rules and usages of Parliament or of deliberative bodies by which their procedure is regulated.” A *rule* of parliamentary law is defined as “a rule created and adopted by the legislative or deliberative body it is intended to govern.” *Landes v State ex rel. Matson*, 160 Ind. 479, 67 N.E. 189.

15. 6 Cannon’s Precedents § 48.

16. 6 Cannon’s Precedents at p. vi.

17. 6 Cannon’s Precedents at pp. vi, vii.

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ious rights which arise whenever a deliberative assembly meets, with due regard for every member's opinion, and to arrive at a consensus of the general will. At issue are the rights (1) of the majority, (2) of the minority, (3) of individual members, and (4) of the entire membership.

As between themselves, each member of an assembly enjoys the same rights as every other member. Otherwise, aggressive and domineering members can monopolize the debating time and prejudice the question under consideration. No member has a greater right to the expression of ideas than any other member. Subject to the rules governing debate, each member may present his views for the consideration of the entire body. When there are no rules, or where each member thrusts his ideas upon others in disregard of the rights of others, chaos, if not anarchy, prevails.

If the precedents of the House can be said to have an overriding function, it is to enable the Members to govern themselves democratically and fairly and at the same time execute the will of the majority. The precedents of the House are utilized in such a way as to expedite business and protect the minority, and at the same time enable the assembly to take action in accordance with the views of the majority.

Parliamentary law recognizes that the will of the majority, when properly and fairly ascertained, must prevail. When one becomes a member of an assembly, he tacitly agrees to abide by the decision of the majority in return for his right to vote. The basic concept of majority rule was advocated by Jefferson in his manual. He said: "The voice of the majority decides; for the *lex majoris partis* is the law of all councils, elections, etc., where not otherwise expressly provided."⁽¹⁸⁾

The historic functions of the minority have always been recognized under parliamentary law. It protects the right of the minority to examine propositions of the majority, to offer amendments thereto, or to attempt to persuade the majority to reject the propositions in their entirety.⁽¹⁹⁾

The minority also has a right to be heard, to vote, and, in some cases and subject to the rules, to delay action temporarily.

18. See House Rules and Manual § 508 (1973).

Although the majority rule applies generally, the House has adopted rules providing for a two-thirds vote on certain propositions, such as on a motion to suspend the rules. Rule XXVII clause 1, *House Rules and Manual* (1973).

19. 1 Hinds' Precedents at p. iii.

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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.