

PREFACE

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.

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being made; (3) precedents *sub silento*—that is, practices or procedures of the House which are never specifically ruled on.

From what has been said it is clear that a “precedent” may be broadly defined as a ruling, decision, or conclusion of the Speaker or Chairman or even a longstanding practice or custom of the House that is applied in settling some question or issue concerning the House or its committees or Members.⁽²⁴⁾ The rulings of the Speaker or Chairman are the most common examples of the precedents of the House, and are applied in the interpretation of the House rules.

Although the term “precedent” is broadly defined, a routine step in the legislative process which in no way illuminates the practice or procedure of the House is not to be considered a precedent. Thus, the mere fact that the House voted routinely for or against a particular bill is without precedential value. By the same token, the mere fact that a particular Member was appointed to a committee is not a precedent, but the method of his appointment may well be regarded as such.

A decision or conclusion by the Speaker or Chairman is a precedent in subsequent disputes where the very point is again in controversy. Likewise, a ruling or conclusion by him is a precedent only on the point or points which he actually decides; a question which merely lurks in the Record and was never brought to his attention, is not to be considered a precedent.

In the absence of controlling precedents, one House may look for guidance to the precedents of the other, although neither body is in any way bound by such precedents.⁽²⁵⁾

Recordkeeping and the Precedents

The precedents cited in these volumes are drawn from a recordkeeping and research system initiated by me when I first took office as Parliamentarian of the House in 1928. Under this system, each ruling of the Speaker, Speaker pro tempore, or Chairman of the Committee of the Whole, is recorded on a day-to-day basis, supplemented with excerpts when available from the *Congressional Record*. The magnitude of this task can hardly be overestimated, many thousands of these precedents having been entered in these records since 1928.

24. See 6 Cannon’s Precedents § 58 (indicating that the opinion of one member of a committee, absent approval by the House, would be insufficient to establish a precedent).

25. See 3 Hinds’ Precedents § 1724, noting that, in 1860, the Senate looked to the precedents of the House in proceeding against a witness in contempt of a Senate committee.