

from such request, the committee do expel him from the club."⁴

Lavergne took his case to court on January 12, 1917. He sought to have annulled the resolution which had ordered his expulsion. He also sought from the club, a total of \$999 in damages.

Judge Roy ruled that the resolution adopted by the club was illegal, *ultra vires*, and in violation of club rules and regulations and that, consequently, it must be quashed and reversed. The court issued a permanent injunction in this case and ordered the defendant to pay the plaintiff up to a maximum of \$100 in damages. The club appealed the court's ruling and on June 21, 1917, the appeal was heard in the Court of King's Bench.

The judgment of the lower court was upheld. Four of the five judges of the appeal court arrived at two conclusions, one of which is of special interest to us and concerns the privileges of parliamentarians: "A resolution, adopted by a social club with a view to expelling one of its members by reason of something he said in the exercise of his duties as a member of the Legislative Assembly, constitutes a violation of the parliamentary privilege of freedom of speech and, as such, is null and void".⁵

Chief Justice Sir Horace Archambeault gave the following judgement:

"On the first point, the respondent, in presenting the facts of his case, quotes section 133 of the Revised Statutes (*Legislature Act*) which stipulates that no member of the Legislative Assembly shall be liable to any action, arrest or imprisonment by reason of anything said by him before such House. The privilege of freedom of speech enjoyed by a Member of Parliament is not limited to the examples mentioned in this section. Moreover, no legislation was needed in order to establish this principle. The existence of this privilege is essential to every free legislature. Not only must a member of Parliament not be liable to any action or arrest, much less imprisonment, he must not be molested in any way by anyone outside of Parliament. Only Parliament has the right to censure one of its members for his contemptible conduct or disparaging or censurable remarks. The King himself could not intervene on the pretext that a member has made some seditious comments or proposed some measure which smacks of treason. The

appellant maintains that only courts of justice are prohibited from censuring a member of Parliament and that this principle does not apply to a club wishing to expel one of its members for some derogatory remarks he made within the confines of Parliament. This claim is totally unfounded. The privilege of freedom of speech is universally applicable.

Our Canadian author on parliamentary procedure, Sir John Bourinot, is a proponent of the same philosophy. He has the following to say about the privilege of freedom of speech (*Parliamentary Procedure*, pp. 47 and 48): "Among the most important privileges of the members of a legislature is the enjoyment of freedom of speech in debate, a privilege long recognized as essential to proper discussion and confirmed as part of the law of the land in Great Britain and all her dependencies. This freedom of speech, of debate and proceeding may not be impeached or questioned in any court or place out of parliament. This freedom of speech was originally intended as a protection against the power of the Crown, but naturally was extended to protect members against all attacks from whatsoever source."

I can, without any hesitation whatsoever, state that the resolution adopted by the club is a violation of the parliamentary privilege of freedom of speech. A Member of Parliament must in no way be molested or prevented from exercising his right to speak openly and freely on any subject that may be debated in Parliament. A member must be able to exercise this privilege without fear or apprehension, since, as the authors of the various works on parliamentary procedure indicate, freedom of speech is an essential part of the constitution which governs us..."⁶

NOTES

¹La Presse, 21 January, 1983.

²L'Événement, 14 January, 1916.

³Le Soleil, 14 January, 1916.

⁴Barreau de la province de Québec, *Les rapports judiciaires de Québec. Cour supérieure*, Montréal, Eug. Globensky & Cie, 1917, p. 351.

⁵Barreau de la province de Québec, *Les rapports judiciaires de Québec. Cour du banc du roi (en appel)*, Montréal, Eug. Globensky & Cie, 1918, p. 37.

⁶Ibid, pp. 38-41 (Refers to 1879 edition of Erskine May).

Maurice Champagne works for the Legislative Library of the Quebec National Assembly.

Ontario's New Legislative Timer Smirle Forsyth

When members of Ontario's legislature took their places at 2:00 p.m. on April 28th, 1983, they found new electronic timing devices installed on the east and west walls of the Chamber with a master timing unit at the Clerk's Table. The timing device met with initial criticism from some members who found it difficult to adjust to a 24 hour clock or who found the flashing seconds digits and the intense green light of the display units distracting. One member stated that the timing devices reminded him of a hockey arena. Labelling them "digital obscenities", he called for their removal. And one columnist likened putting "a flashing, digital clock on the richly panelled walls of the Legislature... (to) wearing jeans to dinner with the Queen." However, despite some of the initial criticism of the Legislative Timer, it has met with the general approval of many of the members and has taken its place with the other electronic innovations (i.e. television cameras, microphones and loudspeakers) in the Chamber.

The installation of the Legislative Timer came about as a result of a proposal submitted to the Board of Internal Economy in June, 1982. For a number of years, a timing device had been located on the Table and provided the Clerks at the Table with the time for oral question period, the length of speeches, division bells, etc. However, this information was not visible to the members of the House and notes, hand signals and coloured lights were used at various times to indicate to the members the time remaining in question period, in a speech or debate or in a division bell.

The Board considered the timing device proposal following a visit to Westminster by the presiding officers and the Standing Committee on Procedural Affairs. At Westminster, members saw video units in the Chamber of the House of Commons and throughout the Parliament Buildings which provide information on the time and subject-matter being debated in the House. As a result of comments concerning the equipment in place at Westminster as well

as increasing requests by members for the time remaining in the oral question period, etc., the proposal for a new timing unit was taken to the Board and subsequently approved.

The timing device was designed and built by Evertz Microsystems Inc. of Burlington, Ontario. Special care was taken in designing and constructing the timer and display units to ensure that the new electronic equipment blended in as much as possible with the traditional and historic setting of the Chamber. The cathode display tubes in the remote display units on the Chamber wall were manufactured in England by English Electric Valves Company and are housed in boxes painted to match the colour of the walls of the Chamber. Wood carver Robert Kroeker, of Virgil, Ontario, constructed the housing for the master timing unit on the Clerk's Table out of walnut to match the wood of the Table and carved rosettes on the top of the unit to match those on the Clerk's chair which dates to 1832 and is one of the oldest pieces of furniture in the House.

The Legislative Timer consists of a master timing unit which is equipped with two local displays and two keypads to permit operation of the unit by a clerk on either side of the Table. One six-digit time display with 0.8 inch high digits sits on the Speaker's desk on the dais. Two wall displays with high-brightness five-inch high digits are lo-

cated in the centre of the east and west walls of the Chamber. The digits in the wall displays are green. Green was chosen because it emits a higher light intensity than red, blue or yellow. This is especially important when the television lights are turned on.

The master timing unit contains a 24 hour real time clock, three multi-purpose up/down timers labelled "A", "B" and "C", an up/down Estimates timer and a division bell timer which controls the ringing of the bells throughout the Parliament Buildings. All of the timers operate in hours, minutes and seconds except the Estimates timer which displays hours and minutes only. The information on each of the timers may be displayed on the remote wall display units. A different timer from that shown on the remote displays may be viewed and preset by a clerk at the Table. In this way, the time remaining in oral question period may be displayed while a clerk presets the time for, say, the first two speakers on a private member's resolution and the time for a possible division bell.

If a timing unit is preset to the down-counting mode, the timer will count down when started. When the timer reaches 0:00:00 it will stop counting and the displays will flash on and off for approximately 15 seconds before the real time will be displayed. If the timer is preset to the up-counting mode, it will count to a maximum

of 9 hours 59 minutes 59 seconds (or 999 hours 59 minutes for the Estimates timer) and will then flash on and off and revert to the real time as with the down-counting mode.

The timing unit is also programmed to ring the division bells in three ways. The bell timer may be preset and activated when required. When the timer is activated, the bells ring until the timer reaches 0:00:00. After flashing on and off for 15 seconds, the displays will return to the real time. Because quorum counts may be called for at any time and the bells must be activated as soon as the Speaker or the Chairman calls in the members if a quorum is not present, the master timing unit has a special timing programme. By pressing a designated quorum bell button and the "Start" button, the time for a quorum bell is automatically displayed and the timer and bell activated. In situations where there is no time limit on a division bell, the bell may be manually controlled from the Table. In such cases, it is usual practice to display the real time while the bell is ringing. Should a technical failure prevent activating or controlling the bells from the Table an override switch at the entrance to the Chamber may be used to control the division bells.

In the case of all of the timers, the time being displayed may be stopped or frozen by pushing the "Hold" button or by activating another timing mode. To prevent tampering with the timers when the House is adjourned or in recess, the keypad may be locked. The keyboard may be turned on by entering a special code. An additional feature permits the power to the wall display units to be turned off. This conserves the life of these units and should enable us in effect to double the life of the units. The intensity of the light emitted may also be controlled and, by reducing the intensity, the life of the units is further prolonged.

To prevent the loss of information stored in the various timers in the event of a power failure or brown-out, an internal rechargeable battery is provided to supply emergency power for up to ten hours. An external battery may also be connected in case of a prolonged power failure.

Despite its many features the Legislative Timer has not replaced the Legislative Clock hanging high above the Speaker's Gallery. It was designed to complement the Legislative Clock which continues to grace the walls of the Chamber as it has for most of the past 90 years.

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Ontario's new legislative timer.