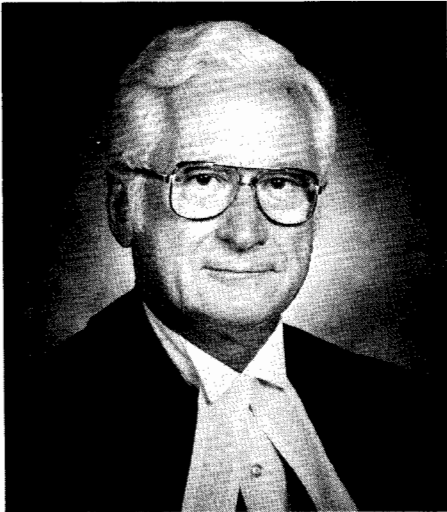


Speaker's Ruling

Reflections on the ringing of division bells, House of Commons,
March 30, 1984



Lloyd Francis (Mitchell House of Portraits)

Background: In March 1982 an unprecedented situation arose when the division bells were allowed to ring for fifteen days because the Official Opposition Whip refused to appear at the bar of the House in order to express his party's dissatisfaction with an omnibus bill introduced by the government. The Speaker at that time, Jeanne Sauvé, refused to intervene and the deadlock was finally resolved by agreement of the parties. Shortly thereafter a special committee was appointed to consider reform of the procedure of the House. The committee made a number of recommendations that were adopted by the House but none of them dealt with the problem of the bells. Since 1982 the problem has arisen again and in the absence of any guidelines certain initiatives have been taken by the chair. Dilatory motions have been declared to have lapsed if not voted on by the hour of automatic adjournment. On other occasions when the question before the House was a substantive one, bells were suspended overnight by the Speaker and continued the following day. The most recent incident occurred on March 19. The following day the Opposition House Lead-

er, Erik Nielsen, raised a point of order protesting the actions of the Speaker in suspending the bells. The Speaker replied to this objection on March 30, 1984.

The Ruling (Speaker Lloyd Francis): The Hon. Member for Yukon (Erik Nielsen) asserted that the Chair exceeded its authority in suspending the sitting and the bells. He said: "The suspending of a sitting overnight in the midst of a division is almost without precedent."

There was, of course, only one such precedent, on May 9, 1983. We now have another resulting from the bell which commenced on March 28. He went on to say that he could find no text or precedent which supported the authority of the Chair to suspend a sitting "at whim". I agree with him. I assure him that the action I took on March 19 was not taken lightly. I looked at precedents. I engaged in consultations. I waited until almost the very last minute in the hope that the representatives of the Parties would notify me of their intentions.

The Hon. Member for Yukon referred to the power of the British Speaker to adjourn or suspend a sitting in circumstances of grave disorder. Let me assure him that the thought of justifying my action in terms of this procedure never entered my head. There was no grave disorder. This practice has no bearing on the situation which faced us. There is nothing in the British practice and precedents which could assist us in resolving any problem related to the bells. This problem is uniquely Canadian. I know of no parliamentary jurisdiction outside Canada where the bells can ring for an unlimited period prior to a recorded vote.

The position taken by the Hon. Member for Yukon was that the timing of a vote rests entirely with the Whips because a division is an expression of the will of the House, not of the Chair. Thus, in his view, even the suspension of the bells overnight is beyond the authority of the Chair, without the consent of the Whips, even though such action cannot affect the length of time the

bells may ring nor the outcome of the vote. This is his view and I respect it.

The Hon. President of the Privy Council (Mr. Pinard) while supporting the action of the Chair in suspending the bells, agreed with the Hon. Member for the Yukon that the decision as to the timing of a vote was a matter for the Whips. He pointed out that there are no standing orders to provide any direction as to the Speaker's role where the bells are concerned. Neither is there any jurisprudence except in relation to the lapsing of dilatory motions and the suspension of the bells overnight when a substantive motion is before the House.

The question which arises, therefore, is: how is the Speaker to assist the House without a standing order or a resolution of the House to guide him? How is he to fulfil his duties when he finds himself trapped in a situation whereby, whatever he does, his action will appear to be partisan? With nothing but common sense to guide him, he can only do what appears to be sensible in the circumstances.

The Hon. Member for Hamilton Mountain (Mr. Deans) made a number of significant comments. He said that at some point the House has to come to grips with the problem that threatens to be a potential disaster for the parliamentary system. He pointed out that the rules of the House are intended to protect each and every Member. And he underlined the embarrassment for the Chair when it finds itself in a situation such as occurred on March 19.

He has my full sympathy in the expression of these views. Let me assure him that the Chair is ever mindful of its duty to protect minorities. However, where voting is concerned, there is little the Chair can do as long as the timing of a recorded vote remains exclusively in the joint control of the Whips of the Government and the Official Opposition. In practice, total control can be exercised by only one of the two, acting on his own, because under our present practice the vote cannot take place unless

both Whips approach the Table together. Perhaps, in taking account of the problem, the House or the House Leaders might give some thought to the position and rights of a third party.

Let us consider the implications of allowing the bells to ring indefinitely. When taken to an extreme, the practice can paralyse Parliament completely. We have seen in Manitoba how the Government was forced into proroguing the legislature because an indefinite bell was used by the opposition to prevent a vote on an important government measure. We can imagine a government in a minority situation using the indefinite bell to avoid facing defeat on an issue of confidence. We have also seen how the bells can disrupt the arrangements for signifying the Royal Assent to bills. While the House is fully within its rights in ordering its affairs as it sees fit, I suggest that the other place and the representative of His Excellency the Governor General were subjected to a grave discourtesy as a result of what happened on March 28. Do we in this House of Commons really want to enshrine this device permanently in our practice?

It seems to me that the House has three options. The bells can be controlled by the Whips, by the Speaker or by Standing Order. I think the House should consider the pros and cons of all three options. If the Whips have unrestricted control over the bells, we all know what the possibilities are. It means that either the Government Whip or the Official Opposition Whip can exercise an absolute veto over the taking of a vote. Perhaps this suits the purposes of the Government and of the Official Opposition. Is it satisfactory to the House as a

whole? Is it acceptable to back-benchers? Is it fair to a third party?

If the Speaker were to control the bells, it could place a very grave responsibility upon him. The advantage to the House would be that the control of the bells would be in the hands of an impartial arbiter. He would, to repeat the words of Mr. Redlich, have regard to the "protection of the majority against obstruction and protection of a minority against oppression". Thus he could be expected to intervene if the bells were used to obstruct a government measure indefinitely. He could also be expected to intervene if the Government were trying to prevent a vote it expected to lose.

The third solution would be to adopt a Standing Order which would place a limit on the length of time the bells may ring and possibly also provide for the scheduling of votes at pre-determined times during the week. In this way, all Hon. Members would know in advance the amount of time available to them to reach the House in order to vote. I believe this would be the ideal solution. Only the adoption of a Standing Order could settle this issue once and for all, and I suggest to the House such a Standing Order is sorely needed.

I shall, as has been suggested, be consulting with the three House Leaders with a view to regulating this very important procedural question. For the time being, pending an agreement to change the practice or until I receive other instructions from the House, I shall continue to follow recent precedents. Dilatory motions will be deemed to have lapsed at the ordinary hour of adjournment if not disposed of earlier. In the case of substantive questions, if not

disposed of before the ordinary hour of adjournment, the sitting and the bells will be suspended until 9 a.m. on the following sitting day, unless the Chair is notified of a specific intervening hour at which the Whips intend that the vote should take place.

I am not suggesting that either of these practices provides a satisfactory answer to the problem. Without a limit on the bells, we shall continuously be facing a potential procedural dilemma.

The House is master of its own procedure. The authority of the Chair is to rise in the House. In areas of uncertainty, the Chair can only do its best to interpret the will of the House and protect the rights of its Members. Without the support of the House, the Chair is powerless. I think we should learn from recent experience. The problems we face have been exposed. I would like to thank Hon. Members for their contribution to this discussion. It has been instructive for the Chair and I hope for all Hon. Members.

Above all, I believe it has been instructive for this great institution which we all cherish. The Chair stands ready to cooperate with the House in any attempt to regulate this difficult and pressing problem. The House should, however, be aware of the Speaker's position. He should not be placed in a situation where he is confronted with conflicting duties.

Until the House comes to grips with this problem, it will remain a constant threat to the efficiency of the House and the security of the Chair. I suggest the credibility of the parliamentary institution is at stake. I believe we have the duty to protect it.