# OBSTRUCTION IN THE NATIONAL HOUSE.

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IN THE British House of Commons, which has been the model on which all other parliamentary assemblies have been formed, there were, until recently, no rules for the closing of debate, and very few, if any, for coercing members to attend to their duties. All rules were made upon the assumption that each member would do his share of the public business either by voting for a measure or voting effectually or ineffectually against it. He felt upon himself only the burden of his individual action, and, being relieved of that, he was sure he had done all that could be required of him. If a member found that the motion he was to make was manifestly against the sense of the House, he was quite likely promptly to withdraw it; and, as I have been told, members would actually refrain from making speeches when they had a right so to do upon intimation of the House that silence was preferable. This last statement somewhat taxes the credulity of an American, but, of course, it may be so. Foreigners have strange ways. The House of Commons, in a word, proceeded, not by forceful rules, but by common consent, to legislate under the charge of the majority.

A few years ago all this changed. The Irish members began to overturn the custom so long existing, and to avail themselves of the latitude given by the rules to stop legislation and to bar governmental action. The scenes of disorder and confusion which followed have not yet passed from general recollection. Whether the conduct of the Irish members was justifiable and suitable, this is no place to discuss. Nevertheless, it is very certain that no one would undertake to justify their action except on the ground of liberty in danger and of unendurable wrongs which could be righted in no other way. In other words, parliamentary rebellion was justifiable only where the right of revolution existed. The result of such action, however, was the adoption of rules for

closing debate, but rules much less stringent than had prevailed in all similar American assemblies for many years.

In the House of Representatives the rules, like those of the House of Commons, were made upon the very proper hypothesis that every member could be relied upon to do his public duty; that he would vote when the question was up, and would conform to the spirit and intent of the rules, and not violate them both while keeping to the letter. A motion to adjourn, a motion to take a recess, and a motion to adjourn to a future day are all motions absolutely necessary for the transaction of public business. It is supposed that each member who makes such a motion makes it not only because he thinks the House ought so to act, but also because he thinks it probably will so act. Any other course is a violation of that understanding on which all rules must rest. And yet a member may make one of these motions, may, indeed, make all of them, and repeat the series again and again, without himself believing that either ought to be adopted, and without the slightest expection that either will be adopted. In such a case, the member is simply availing himself of the forms of rules intended to facilitate business, for the sole purpose of obstructing business.

Again, whenever bills are presented to the House for reference to appropriate committees, any member can demand that a bill be read. This is an obvious right; for upon the contents depends the reference, and on that members may be called to vote. In making such a request, which is not usual, since in ordinary cases the bill is sure to go to a suitable committee, the member ought to be actuated by a desire to ascertain the contents of the bill in order that he may be prepared to vote intelligently on its reference if called upon. But it has many times happened that the member himself has introduced, for the purpose of demanding their reading, long and tedious bills in which he had no interest—bills already before Congress—in order that, by mere consumption of time by the reading clerk, the legislative day might be wasted on which two-thirds of the House would otherwise have voted to pass a bill which was obnoxious to this single member.

A provision of the Constitution has been wrested from its original design and made the corner-stone of the rampart of obstruction. The Constitution provides that, whenever one-fifth of

the members desire it, the yeas and nays shall be entered on the journal. This calling and recording of the yeas and nays undoubtedly had no other purpose than to give more formality and sanction to the act of voting, and to inform the people how in important junctures of public affairs their representatives had acted. So completely has this provision of the Constitution been turned from its original purpose that I should not be surprised to find that double the number of pages of the House journal had been wasted in the record of yeas and nays on frivolous motions than had been used to record all the votes on serious questions. The flagrant abuse of this provision of the Constitution goes far to justify Roger Sherman's desire to have it stricken out altogether.

Two flagrant cases of misuse of power placed in the hands of individual members occurred in the last Congress, which illustrate both modes of action to which reference has been made.

During the war a direct tax was levied and duly apportioned among the States. Some of the States paid and some refused, and on property in still others the federal authorities partially collected the tax. Obviously either all should pay this tax or none. Either it should be refunded to those States which did pay or be exacted from those which did not. We had an overflowing treasury, the surplus in which used to excite much sympathetic and frightened utterance; but now, singularly enough, the opposition newspapers are thereon mainly silent, although it has somewhat increased. With such an abundance to pay with, the proposition to repay those who had paid, rather than harass those who had not, would seem to have been a wise course. But whether it would or not, it was evidently a case of importance enough to have its day in court and be decided by the ultimate tribunal. Yet a small faction of the Democratic party, by the aid of dilatory motions and the abuse of the Congressional right to have the yeas and nays, after the consumption of the most valuable days of the session, drove in the Northern Democrats and postponed the measure to a session beyond the election, when President Cleveland, not having before him that fear of the people which might have been to him, as to most politicians, the beginning of wisdom, was able to slake his thirst for vetoes on something of greater pecuniary value than a soldier's pension.

The other example of the exercise of power according to the letter and against the spirit of the rules was that of the Union-Pacific Funding Bill. Under the rules of the House, on two Mondays in each month, after the presentation of bills, the rest of the day is set apart to enable the House, after a short debate, to pass bills by a two-thirds' vote, or so to suspend other rules as to enable particular measures to be considered on special days. On the day when the Funding Bill was to come up, a member not content with the fact that the question of considering the bill would be so presented that his one vote against consideration would overbalance any two votes the other way, determined to make himself equal to the whole House. He therefore introduced a bill already before the House—a bill, if I mistake not, to provide for the codification of the laws of the District of Columbia—and demanded the reading of it. Of course, that was sure to finish the day, either by an early adjournment or by exhaustion. Without in any way entering into the merits of the bill, it is enough to say that it was a project to settle with the largest single debtor of the government. The plan of settlement had received the approval of a commission specially appointed by President Cleveland and of a committee appointed by Mr. Carlisle. Whether, after full discussion, the plan of settlement would have stood the test of examination, I do not pretend to say; but it does seem as if, under a republican form of government, two-thirds of the House of Representatives ought not to have been deprived of the power to say whether the subject should be discussed or not.

What is a legislative body for? It is not merely to make laws. It is to decide on all questions of public grievance, to determine between the different views entertained by men of diverse interests, and to reconcile them both with justice. It must in some form hear the people. A negative decision by a legislative body is of as much value to the community as a law. Time is not lost when cases are investigated and action refused. Half the grievances of mankind turn out to be unfounded as soon as somebody is found to listen to them. The law courts decide cases according to law already made, but there is a large class of cases too indefinite for general laws, or which have grown up since general laws were passed, which demand the attention of a body capable of making laws to suit cases. A legislature is the court of very last resort. Therefore it would seem as if it should have such rules of action

as would make the majority efficient. Our government is founded upon the idea of majority rule. There can be no other government by the people.

The citizen, as such, is relieved from government by the majority only in those cases provided for by constitutions. Constitutions are the charters of the rights of minorities, and they have no other. When a legislative body makes rules, it does not make them, as the people make constitutions, to limit power and to provide for rights. They are made to facilitate the orderly and safe transaction of business. Members are representatives, not acting in their own right, but in the right of their constituents. As a body, they represent the whole people of the United States, and have, therefore, no right to limit their own power. Rules should not be barriers : they should be guides.

Men speak of the minority in the House of Representatives as if it were political and always the same—a body fixed and definite, which it were wise to endow with power of its own and for its own advantage. But the minority is a shifting quantity. Not a third of the questions—perhaps not a tithe—are political. Divisions more often run lengthwise of the hall than across it. Hence it is absurd to talk about the rights of the minority as such. The rights they have, and ought to have, are simply those which will serve to guide the whole House acting by its majority to safe and correct conclusions. The right to debate itself, than which nothing ought to be more sacred, is a right conferred, not for the benefit of the individual member, but because by debate alone can all the facts and reasons be brought out which will enable the whole House to make sound and wholesome laws. If time were eternity, or men were angels, there should be no limit to debate. But in the House of Representatives men are not angels, and even time is limited to five hours in the day and six months in the year ; and therefore debate is much abridged. I have been inclined to think it has been too much restricted ; but there seems to be no remedy except in a changed sentiment in the House. When debate becomes the rule and speech-making the exception, we shall have a better state of things in that regard ; for speech-making contributes more than anything else to the ruin of debate.

Among the fears that are sometimes entertained, whenever a proposition is made that wiser rules shall be adopted, is the fear

lest precipitate action, soon to be repented of, will be taken. There was never any fear so groundless as that. The inertia of a legislative body of three hundred men is something enormous anywhere, but is greater, perhaps, in the House of Representatives than anywhere else. There are, and can be, no parliamentary bodies of large membership which can transact business expeditiously. With the greatest liberty new rules could possibly give to it, the House could never pass upon one-fifth of the business presented. With this fear of precipitate action goes the other fear that there would be less debate—less opportunity to present objections and discuss amendments. This fear also is without foundation. Indeed, one of the incentives now to the cutting-off of debate is the fear that it may be used by the unscrupulous in aid and furtherance of delay and dilatory motions. If dilatory motions were reduced to their lowest limit, or, even as such, entirely abolished, there would be greater facilities for action and consideration; and therefore there would be a greater chance for debate, and the danger of unwise laws would be much lessened.

The present system is capable of indefinite abuse, and the actual abuse is increasing every year. For all the period preceding the year 1882, it was always a point of honor not to use dilatory motions in an election case. It being the duty of the House to determine the election of its own members, and its own character being determined by its membership, to prevent a decision upon a contested-election case seemed to undermine the very foundations of parliamentary government. But in 1882, taking advantage of the great confusion into which the death of Garfield and the circumstances which followed had thrown their opponents, the Democrats refused to vote in an election case, and, when a quorum of Republicans was obtained, refused even to let them vote. This illegitimate warfare was carried on to the complete stoppage of all public business, until the House, by a change of its rules, summarily took away the power of using dilatory motions in election cases, and thus put down the parliamentary rebellion. To the credit of the sound sense which the Democratic members had, even when much excited, it should be added that, though they indulged in a somewhat vaporous protest, not one single member of them all will be found recorded against the decision of the Speaker which brought them to terms. This sensible change in the rules was abrogated on the return of the

Democrats to power, and filibustering in an election case has ceased to be rare. If this is to continue, the day is not distant when the House will cease to be what the Constitution says it shall be—"the judge of the elections, returns, and qualifications of its own members." It has already come to pass that "a majority" is by no means certain to "constitute a quorum to do business."

Nevertheless, all this use of what are called dilatory motions had a reasonable origin and a reasonable cause. It has often been of great value. Sometimes majorities, in what Mr. Jefferson calls "the wantonness of power," have tried to trample down the very safeguards which were intended to preserve them from inconsiderate action. Sometimes majorities have refused the right to debate, on which rests all sound action by deliberative bodies. Sometimes, also, attempts have been made to rush through the House measures of great public importance with no previous notice, without giving the country a chance to be heard in cases where the people's voice, if heard, might be potential. Dilatory motions have often, in such cases, been justifiable and justified. But in those days men used their power to delay with a suitable fear of the consequences. It had to be a good case or the sentiment of a member's own party and the general sentiment of the House soon made it clear to him that he had better abandon a measure so radical. Even a practically unanimous party could not long keep up wanton obstruction. To-day the question is between certain possible benefits and certain assured evils. The sentiment of the House seems no longer able to restrain individuals, and a real public sentiment has not yet been aroused.

The next House will contain no large and successful majority tempted by its largeness and success to ride over the minority. Thus far, the majority seems to be but three, and a majority of three will hardly cover the percentage of loss from sickness and disability. Even if the Territories should add an unbroken band of five, there will then be but three above a quorum; which is hardly enough for business, let alone tyranny.

Undoubtedly, some effort will be made next December to change the rules so that business can be done and the scandals of the last Congress avoided. I ought not to have written the the words "to change the rules," for that conveys an entirely incorrect idea. No rules have to be changed, for the new House will have no rules. What should have been written is that there

will be an effort to establish rules which will facilitate the public business—rules unlike those of the present House, which only delay and frustrate action.

Whether the new rules will simply go back to the days before Mr. Randall was Speaker, or will have changes more or less important than this would be, nobody but the House can say; but the people of the country ought with one voice to help and support any honest effort to do business and to shorten Congressional sessions.

It has been urged as one reason why an extra session should be called in November that the Democrats in the House will struggle against any new rules, even to the extent of reviving and illustrating by another example the scandalous scene of the year 1882, when for days and days they prevented the House from performing its constitutional duty of passing upon the question of the election of a member. I do not believe this to be possible. In 1882 the rules of that House had been adopted, and yet when the House put an end to the Democrats' defiant action by proposing to sustain the Speaker's decision against them, not one of them voted against sustaining the decision, and all were silent as their names were called, when by a unaminous vote of the House an appeal was laid on the table.

The case in December will be much simpler. The House will meet without rules, and must make them. They must be made by the majority of the House, for no one else can by any possibility make them. To suppose that the opposition will refuse to do their legislative duty unless they can dictate the rules, is the wildest dream of parliamentary insurrection that ever presented itself to human vision.

But whether they venture on this action or not, the whole subject needs the sunlight of public opinion. If the American people do not get a Congress such as they wish, and legislation such as they need, it is entirely their own fault. I do not mean that they might have elected better men and are therefore to blame. They are at fault if they do not see that the work is done after the men are elected. Public opinion is the ultimate governing power, and if the people were thoroughly in earnest to prevent the waste of time and the injustice of delay involved in bad rules and worse practices, they would find that their servants would no more defy them than they would him who put into their nostrils the breath of life. THOMAS B. REED.