

Topical discussion on the quorum and attendance of Members in the Chamber Minutes (Extracts) Mexico Session (April 1986)

Mr. Lussier (Canada) introduced the topical discussion by saying that the word 'quorum' came from the medieval English document appointing Justices of the Peace which specified certain ones in whose absence no cases could be heard. The quorum could be described as the way to excuse those who were absent or as a means of speeding up the procedure of an assembly but the main justification was to prevent a minority from imposing its will on the majority. Since the aim was to protect the majority, no ideal percentage existed for the quorum. In some countries 10% could be sufficient to reflect majority views, particularly where party spokesmen expressed the opinion of their supporters. A higher quorum might be necessary in non-partisan assemblies or ones with a very small number of Members (in which a quorum of 50% would be a minimum). The House of Lords in the United Kingdom had a quorum of 3 out of a total membership of 1 180. There was always a danger that the existence of a quorum would provide the minority with a weapon to obstruct or delay parliamentary proceedings.

The Canadian Senate, which had 104 Members, had a quorum of 15. In the Canadian House of Commons the number of Members set in 1867 was 151; this had now risen to 280 but the quorum remained at 20. Any Senator could call for a count of the Senate and other Senators could come into the Chamber from elsewhere in order to make up the quorum. If there was no quorum, business was adjourned. At the beginning of the sitting the Speaker was responsible for ensuring that the quorum was present but after that only a Senator or a Member of the House of Commons could draw attention to the absence of a quorum. If it was clear that the quorum no longer existed, the bells were rung to summon Senators or MPs back to the Chamber. In the 3 major committees of the Senate a majority of the Committee had to be present for a vote to be taken but evidence could be taken without a quorum. For committees of both Houses and other committees it was a matter for the committee to set the quorum. Some attempts to increase the quorum in the Senate had failed. In the House of Commons in Canada Members were under an obligation to attend meetings unless they had dispensation to be elsewhere. Permission to be absent would only be granted for urgent personal reasons, illness or family misfortune. This was closely enforced and Prime Minister MacDonald had been called to the Bar of the House to explain his frequent absences.

In the Senate absence was permitted for official reasons, which had to be notified to the Clerk. If a Senator was absent for more than 21 days per session he was fined 120 Canadian dollars. The record of attendance was kept by the Gentleman Usher of the Black Rod. In the House of Commons the MP notified the Clerk of the number of days he had been absent in the past month.

In conclusion *Mr. Lussier* said that he would be interested to know about the practice in other countries with regard to the quorum and attendance of Members in the Chamber.

The Vice-President thanked him for his clear and witty presentation and noted that the Association operated without a quorum.

Mr. Charpin (France) said there were strict rules in the French Parliament related to quorum but they were not enforced. The existence of a quorum protected the majority from the imposition of the views of a minority and also preserved the moral authority of an assembly's decisions. This was particularly important in the early days of French parliamentary life when the National Assembly could alter its agenda very easily. Nowadays the programme of business was more rigid and predictable and therefore less susceptible to sudden changes by those Members who happened to be present.

M. Trnka (France) said that the quorum had originated at a time when Deputies voted accorded to their conscience as individuals and the quorum was a protection for them. Now it had become a sanction against absenteeism. Obviously public opinion could not be expected to respect decisions taken with a large number of Deputies voting but only a small number actually attending the debate. Having a count of the Assembly was a great waste of time and had become a method of delay in the National Assembly.

Mr. Kabulu (Zaire) said that a Member who was absent for the whole of the 3 month Parliamentary session would be dismissed as a Member of Parliament but this had not yet occurred. The publication of a list of absentees was sufficient to act as a deterrent.

Mr. Davies (United Kingdom) said that in the House of Lords the quorum for a vote on legislation was 30. If the quorum was not present, the House adjourned. If during a debate only 2 Peers were present in the Chamber, unaware of the absence of a quorum and a third Peer entered to point out the lack of a quorum, the arrival of the third Peer was sufficient to make up the quorum.

The Vice-President said that it was necessary to have only 3 people in the Chamber of the House of Commons for business to be conducted but that such small attendance was only relevant if a united government was faced by a united opposition. Nowadays there was much greater variety of opinion within the opposition parties and on both sides of the House minorities had emerged. In 1979 the government had lost power by 1 vote after much consideration of which way the various smaller parties would cast their votes. The opinions of these minor parties were becoming increasingly important in the House of Commons. He agreed that it was sensible, when setting a quorum, to distinguish between attendance in the Chamber and the minimum number necessary for a vote. The House of Commons had now abandoned the requirement for a quorum of Members present in the Chamber but a minimum number of 40 was required in any vote. Since 1971 there had been no provision for counting the number of present in the House. Prior to that time counts had been called but not during certain items of business or during dinner time. The requirements of the quorum had probably caused more trouble for back benchers than for the Government. There were other

means of securing the attendance of Members in the Chamber, particularly the activities of the party Whips. In the House of Commons there were no penalties for non-attendance but, as Machiavelli had said, the absent were always wrong.

Mr. Lussier said in Canada that the Speaker had no power to check the quorum after the start of proceedings unless a Member called for a count. On one occasion a bill changing the national holidays had been passed through all its stages in a short time without any opposition, even though there were fewer Members than the quorum present in the Chamber.

Dr. Buecker (Federal Republic of Germany) said that the only requirement for a quorum in the Bundestag was in relation to votes and then half of the Members had to be present. In practice most votes were taken with less than a quorum present, but the quorum would only be checked if it was challenged by one of the party groups or by 5% of the Members. Otherwise, there was a legal presumption that the quorum existed. This presumption had been challenged before a constitutional court and upheld. If it was established that there was a lack of quorum the sitting was ended. This was used as a means of obstruction.

Mr. Jacobsen (Israel) asked what the quorum was for legislative committees in the House of Commons.

The Vice-President said that in Standing (legislative) Committees the quorum was one-third including the Chairman. In Select Committees the quorum depended on the size of the Committee but was usually approximately one-third.

Mr. Hondequin (Belgium) said that according to a constitutional provision dating from 1931 a quorum of 50% of Members plus 1 was necessary for the passage of resolutions in either Chamber. Parliamentary rules were stricter than the Constitution and a public vote was only valid if the quorum of 50% plus 1 of Members was present. If there was a lack of quorum the President could delay the vote until the quorum was reached; otherwise the meeting would be suspended for an hour or if necessary until the next day. The Senate could consider its next business but not vote on it in the absence of a quorum. Committee meetings did not start until at least half the Members were present. No satisfactory sanction had been found for non-attendance. When a sitting was suspended for lack of a quorum it was those who were present who were punished though absentees might suffer from the publication of their names.

In response to a question from *Mr. Lussier*, *Mr. Hondequin* confirmed that when a vote was called the doors would be left open for up to one and a half hour to enable a quorum to be reached.

Mr. Hadjioannou (Cyprus) said that the general rule was that a third of Members should be present for consideration of business. There were higher requirements for special cases, for instance, a three-quarters majority for a secret session, absolute majority for a dissolution, two-third majority for decreasing the number of Members of Parliament. Committees normally had a quorum of 50%. These requirements usually caused no problem since the average attendance was 80%. On a recent occasion, when the absence of a quorum had been raised, the

Speaker had ruled that since the quorum had been present at the start of proceedings it did not matter if that quorum disappeared before the vote.

Mr. Lussier said that the absence of a quorum would render a vote null and void in many countries. He was grateful for the attention which had been given to his topical discussion and for the comments which had been made.

The *Vice-President* said that it had been a short but useful discussion and he looked forward to seeing the proceedings published in the Association's Journal, Constitutional and Parliamentary Information.

Supplementary note on the quorum

by Dr. Buecker
(Federal Republic of Germany, Bundestag)

The German Bundestag is one of those Parliaments, which have a quorum only for votes. The quorum exists when more than one half of the Members of the Bundestag are present in the plenary Chamber.

Any observer of parliamentary proceedings knows of course, that in most instances this is not the case. However these votes take place completely in line with our rules of procedure, because we resort to—what I should like to call—a parliamentary trick. According to this the quorum is expressly ascertained only if its presence is doubted by a parliamentary group or by five per cent of the Members of the Bundestag. If no doubts are expressed, the legal assumption is that the quorum exists. This applies even when it is obvious to everyone that the actual number of Members present is far below the quorum.

This assumption contained in our rules was incidentally the object of proceedings before our constitutional court. The result of these proceedings was, that the assumption is completely in accordance with the constitutional principles of representative democracy.

In conclusion let me point out that in the current electoral term the presence of the quorum has been doubted more frequently than during previous terms. In such cases the presence of the quorum has to be ascertained in conjunction with the vote itself. For this purpose we use a method of voting, under which the Members leave the Chamber and are counted upon reentering it. If the lack of the quorum is established, the President shall immediately terminate the sitting. This illustrates that doubts as to the existence of the quorum can definitely be employed as a means of obstruction.

Supplementary note on the quorum

by Mr. Hjortdal
(Denmark, Folketing)

The Danish Constitution stipulates in Section 50 that only when more than half the members are *present and take part in the vote* Folketinget can take decisions. Thus Quorum is 90 members—the total number of members being 179.

Quorum in Committees of Folketinget is the same proportion—i.e. at least 9 out of the 17 members of the Standing Committees (11 members of the 21 members of the Committees on the Rules of Procedures).

There are no rules demanding a minimum attendance during debates in Folketinget.

Supplementary note on the Quorum

by Mr. Kabulu (Zaire)

In Zaire, the constitution provides a severe sanction, namely, withdrawal of mandate, from any Member of Parliament who is absent from a third of the Plenary sittings held in one session. Although several Members of Parliament have put themselves in the position of losing their mandate in this way, the Bureau has exercised patience in organising special meetings at which their attendance record is drawn to the attention of the Members concerned, and the Bureau urges them to show themselves worthy of the confidence the people have placed in them.