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Democracy endangered by clumsy parliamentary procedures

Your readers, having been presented with conflicting arguments from the politicians on the hybridity of the Aircraft and Shipbuilding Industries Bill, may be helped by an impartial view from an ex-official. As a parliamentary draftsman I often had to grapple with the procedure of the House of Commons on hybrid Bills, and I would make the following comments on the letters from Mr Foot (3 June 1976) and Mr Heseltine (4 June). The hybrid Bill procedure was devised to prevent private rights from being circumvented. Persons affected by a local or private Bill are entitled to make representations by counsel to a select committee of the House, which can amend the Bill to take account of their representations. These rights cannot be circumvented by introducing the measure as a public Bill - such a Bill is deemed 'hybrid' and must follow the procedures applicable to both public and to private Bills. The officials of the House, advised by the draftsman, must scrutinise each public Bill on presentation to make sure either that it is not hybrid or that it conforms to private Bill procedure *from the beginning*. Clearly in this case the scrutiny, which I am sure was carried out with good faith and the conscientiousness invariably displayed by officials charged with this duty, failed to discover an obscure factor rendering the Bill hybrid. It was discovered only after the Bill, having been treated as a purely public Bill, had passed through a record number of 58 sittings in standing committee.

In my view the only sensible course for any government in this situation is to put down a motion to suspend the standing orders relating to private business and ask the House to amend the Bill to remove the hybrid element. This is the course the government have adopted. It is absurd to talk about changing the rules of the game because a government moves to suspend standing orders. The House of Commons is always master of its own procedure, and some standing orders (e.g. that relating to the taking of opposed business after 10 o'clock) are suspended almost every day. Provided the hybrid element is removed from the Bill, so that in the end private interests do not suffer, there can be no objection. The only point of any substance in Mr Heseltine's letter is the question raised in the second paragraph. The answer is simple. The Speaker, faced with a novel situation unprovided for by the literal meaning of the standing orders, had to devise a ruling based on their true intention. Since the ruling sprang from the standing orders the House could disapply it only by suspending the standing orders.

I hold no brief for Mr Foot, but I consider everything in his letter to be justified. Especially do I support his statement that democracy is endangered by clumsy parliamentary procedures - especially when their inadequacy is used by opposing politicians to score empty debating points. I particularly deplore Mr Heseltine's stale argument that the Government is shown to be 'incompetent' because 200 amendments need to be tabled for the report stage of the Bill. A man with his ministerial experience knows perfectly well that such amendments are inevitable. The whole purpose of Bill procedure is to subject the Bill to widespread scrutiny, inevitably giving rise to the need for numerous amendments. That happens on every major Bill, and many of the amendments will be to implement points conceded by the Government in standing committee. The question of incompetence simply does not arise.

There remains the question of the broken pair. Surely some inquiry should be held to ascertain the truth of this. For any party deliberately to break a pair, especially when a major decision turns on it, is indeed a substantial blow to the working of our parliamentary democracy.¹

¹ *The Times*, 7 June 1976.