

Consitutional
and Parliamentary
Information
ASGP



**Obstruction of parliamentary
proceedings**

**The parliamentary systems of
Guatemala, Bulgaria and Hungary**

INTER-PARLIAMENTARY UNION

Aims

The Inter-Parliamentary Union whose international Statute is outlined in a Headquarters Agreement drawn up with the Swiss federal authorities, is the only world-wide organization of Parliaments.

The aim of the Inter-Parliamentary Union is to promote personal contacts between members of all Parliaments and to unite them in common action to secure and maintain the full participation of their respective States in the firm establishment and development of representative institutions and in the advancement of the work of international peace and co-operation, particularly by supporting the objectives of the United Nations.

In pursuance of this objective, the Union makes known its views on all international problems suitable for settlement by parliamentary action and puts forward suggestions for the development of parliamentary assemblies so as to improve the working of those institutions and increase their prestige.

Membership of the Union as of 12 November 1988

Albania, Algeria, Angola, Argentina, Australia, Austria, Bangladesh, Belgium, Benin, Bolivia, Brazil, Bulgaria, Cameroon, Canada, Cape Verde, Central African Republic, China, Colombia, Congo, Costa Rica, Côte d'Ivoire, Cuba, Cyprus, Czechoslovakia, Democratic People's Republic of Korea, Democratic Yemen, Denmark, Djibouti, Dominican Republic, Ecuador, Egypt, Equatorial Guinea, Finland, France, Gabon, German Democratic Republic, Germany (Federal Republic of), Greece, Guatemala, Honduras, Hungary, Iceland, India, Indonesia, Iran (Islamic Republic of), Iraq, Ireland, Israel, Italy, Jamaica, Japan, Jordan, Kenya, Lebanon, Liberia, Luxembourg, Madagascar, Malawi, Malaysia, Mali, Malta, Mexico, Monaco, Mongolia, Morocco, Mozambique, Nepal, Netherlands, New Zealand, Nicaragua, Norway, Pakistan, Panama, Papua New Guinea, Paraguay, Peru, Philippines, Poland, Portugal, Republic of Korea, Romania, Rwanda, Senegal, Singapore, Somalia, Spain, Sri Lanka, Sudan, Sweden, Switzerland, Syrian Arab Republic, Thailand, Togo, Tunisia, Turkey, United Arab Emirates, United Kingdom, United Republic of Tanzania, United States of America, Uruguay, USSR, Venezuela, Viet Nam, Yemen, Yugoslavia, Zaire, Zambia, Zimbabwe.

Associated member: European Parliament.

Structure

The organs of the Union are:

1. *The Inter-Parliamentary Conference* which meets twice a year.
2. *The Inter-Parliamentary Council*, composed of two members from each affiliated Group.
President: Mr. Baouda Sow (Sénégal).
3. *The Executive Committee*, composed of twelve members elected by the Conference, as well as of the Council President acting as *ex officio* President. At present, it has the following composition:

President: Mr. B. Sow (Sénégal)

Members: Mr. R. Bitat (Algeria); Mr. B. Friesen (Canada); Mr. Huan Xiang (China), Mr. S. Khunkitti (Thailand), Mr. J. Maciszewski (Poland), Mr. N.C. Makombe (Zimbabwe), Mrs. M. Molina Rubio (Guatemala), Mr. L.N. Tolkunov (USSR), Mr. M. Marshall (United Kingdom), Mr. M.A. Martinez (Spain), Mr. I. Noergaard (Denmark), Mr. C. Nunez Tellez (Nicaragua), Mrs. L. Takla (Egypt).

4. *Secretariat of the Union*, which is the international secretariat of the Organization, the headquarters being located at: Place du Petit-Saconnex, CP 99, 1211 Geneva, Switzerland.

Secretary general: Mr. Pierre Cornillon.

Official publication

The Union's official organ is the *Inter-Parliamentary Bulletin*, which appears quarterly in both English and French. This publication is indispensable in keeping posted on the activities of the Organization. Subscription can be placed with the Union's Secretariat in Geneva.

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Inter-Parliamentary Union

Obstruction of Parliamentary Proceedings

1. Introductory Note by Dr. Joseph Biicker, Secretary General of the Bundestag, Federal Republic of Germany

1. Obstruction is one of the less positive sides of parliamentarism known in virtually every parliament. This not only applies to the present, but also and above all to the last century. Let me remind you of the spectacular, classic attempts at obstruction in Britain and in the Habsburg monarchy that occurred during the last quarter of the 19th century. As regards the German Bundestag, however, I am fortunately able to state that obstruction is an extremely rare phenomenon.
2. Obstruction is defined as follows in Erskine May's *Parliamentary Practice*, a book that is much valued in Germany too: a Member who "abuses the rules of the House by persistently and wilfully obstructing the business of the House, that is to say, who without actually transgressing any of the rules of debate, uses his right of speech for the purpose of obstructing the business of the House by misusing the forms of the House, is technically not guilty of disorderly conduct". The main point is that obstruction does not consist in a formal violation of the rules of procedure; it is a conduct which, in formal terms, complies with the procedural rules, but still constitutes an abuse of the forms. As a rule, such abuse is designed to delay or prevent parliamentary decisions.
3. Let me elaborate on this definition by making a further distinction, namely between obstruction in principle and tactical obstruction.

We are concerned with obstruction in principle whenever the manoeuvres aimed at delaying or preventing parliamentary decisions are ultimately due to the fact that the principles of parliamentarism, and above all the majority principle, are called into question as such. In most cases, this attitude signifies at the same time that there no longer exists a consensus on the entire set of constitutional values of the country concerned. In Germany it was the National Socialists who in the parlia-

merit of the Weimar Republic, especially from 1930 to 1933, disparaged parliamentarism and paved the way for the totalitarian state. The parliamentary rules of procedure are obviously unable to provide any adequate instruments to combat this anti-constitutional obstruction, because in these cases obstruction constitutes merely one element of a broader strategy to undermine the constitutional state. Rather, what is required are measures of a different kind, such as the ban on anti-constitutional parties that can be imposed in some countries.

Compared to obstruction in principle, tactical obstruction is far more harmless. It is merely concerned with achieving successes in everyday politics. This aim is achieved if the vote on a bill has to be postponed, for example. For obvious reasons, this form of obstruction too is mostly used by a parliamentary minority. However, a parliamentary majority can also practise obstruction, for example by preventing certain debates and votes in order to prevent its internal controversies from becoming public.

4. The following are typical instruments of tactical obstruction, most of which are of no practical relevance in the German Bundestag, however:
 - Filibustering. A comparable form of obstruction is obstruction by means of a large number of explanations of vote. In the German Bundestag filibustering as a delaying tactic is largely ruled out, because precise speaking times are laid down for virtually every debate.
 - The tabling of a large number of procedural motions seeking, for example, to extend the agenda or moving the closure of the debate. Because the corresponding motions have to be dealt with, the treatment of the items on the regular agenda is delayed. A similar result can be achieved by means of motions for amendments.
 - A large number of roll-call votes or votes using voting cards bearing Members' names.
 - Interpellations. The discussion of interpellations can obstruct the orderly conduct of the ordinary business of the House, if there is an excessive number of lengthy and detailed interpellations.
 - Comprehensive and repeated committee hearings of experts and representatives of interest groups on the same topic.
 - The absence of Members aimed at ensuring that there is no quorum or, if a quorum is presumed to exist, the deliberate calling into question of the existence of a quorum.

5. Those primarily, or even exclusively, interested in the efficiency of a parliament in terms of its "output" of laws and decisions will consider any form of tactical obstruction a disturbance. The parliamentary majority in particular therefore frequently tends to accuse the parliamentary minority of practising obstruction even in those cases where the minority makes use of its parliamentary rights in a perfectly legitimate fashion. By contrast those who are more orientated towards other functions of parliament, for example its function as a forum of the nation and as a place of integration, will show greater equanimity in the face of attempts at obstruction.

For those adopting this approach, which I personally favour, amendments of the rules of procedure as a means of fighting tactical obstruction are generally ruled out. The abuse of parliamentary rules in individual instances must not tempt us to upset a balanced system of majority **rights** and minority protection. Preference should be given to pragmatic measures which deprive obstruction of its effect. In the event of a large number of roll-call votes being moved, a simple solution, for example, would be the introduction of an efficient electronic voting system. It goes without saying that the problem of obstruction cannot always be solved as easily as that. In individual cases the Speaker, or President, must therefore have the possibility of rejecting as inadmissible the abusive use of rights laid down in the rules of procedure. However, the most important agency of control as regards obstruction is the public. This public, which is produced above all by the media, broadcasting and the press, has little understanding for "procedural tricks" and is not prepared to give good political marks for it. For a parliamentary system of government characterized by the openness of its proceedings, obstruction should therefore not constitute a problem. And even if attempts at obstruction are occasionally made, one should always remember that this obstruction is an acceptable price to be paid for carefully defined rights of parliamentary minorities.

6. As regards our discussion, two points appear to be of particular importance to me:
 - a) Does obstruction exist in your Parliament and what form does it take?
 - b) In what way is parliamentary obstruction controlled in your Parliament?

2. Topical discussion

Extracts from the minutes off the Bangkok meeting in October 1987

The PRESIDENT (Sir Kenneth Bradshaw) thanked Mr. Roll for introducing the topical discussion on behalf of Dr. Buecker, who was unable to attend the current session.

Dr. ROLL (Federal Republic of Germany) referred to the introductory note on this subject which had already been circulated. He referred to the definition of 'obstruction' in Erskine May as a misuse of the forms of House for the purpose of obstructing business in a way that was not technically disorderly conduct. He distinguished between obstruction in principle and tactical obstruction. The latter was part of normal success-seeking in everyday politics. He invited members of the Association to address themselves to the question whether obstruction existed in their parliaments, what form it took and in what way parliamentary obstruction was controlled in individual parliaments.

The PRESIDENT said that obstruction was a familiar subject but solutions to it were not always readily available. Sometimes one apparent solution created new opportunities for obstruction.

Mr. LONGI (Italy) said that the Italian Parliament had experienced tactical obstruction almost every year. Small parliamentary groups had resorted to partial filibustering while avoiding over-opposition. Such tactics have been particularly marked in 1949 on the question of entry to NATO, in 1953 on electoral law and 1970 on regional legislation. More recently, the practice had been less common and the support of a major parliamentary group was essential for such devices to be effective. The only serious filibustering recently had been by extreme left wing parties against legislation restricting indexation of wages and salaries. The legislation had been passed eventually.

Mr. JOHANSSON (Sweden) said that tactical obstruction was non-existent in Sweden. Members showed a high degree of discipline and awareness of a permanent lack of time on the floor of the Chamber. The Constitution provided hardly any measure for limiting debate in Parliament.

There was no filibustering and no use of procedural motions to delay debate. Voting was by electronic means and took place so quickly that it provided no opportunity for delay. Interpellations were not taken at meetings when decision-making debates were to occur. Committee hearings did not

affect proceedings on the floor of the Chamber and there were no rules about a quorum. Thus obstruction was no problem in the Swedish Parliament.

Mr. YATOMI (Japan) said that the Committee on Rules of Administration set the time limit for speeches and if agreement could not be reached, the majority could enforce its wishes by a vote. There was no electronic voting but some obstructions occurred when Members walked very slowly up to cast their ballots on a formal vote. This was known as the 'cow's pace'. A single round of voting could take several hours, but this practice was very rare nowadays.

"Televising of proceedings had been a constraint on obstruction"

Sir JOHN SAINTY (United Kingdom) said that in the House of Lords, although there was some partisan criticism of the other side's parliamentary tactics, there was no real obstruction. The televising of the House's proceedings had been a constraint on such obstruction, although the House's procedure made it very vulnerable to such tactics. Filibustering challenges to the quorum and procedural motions could all be used to delay business and there were no delegated powers to the Speaker to control order. The consciousness that nothing could be done to prevent disorder may have itself restrained Members from overt obstruction.

Mr. KHAIR (Jordan) spoke as follows:

"The House of Parliament of Jordan has gone — as is the case of many Parliaments — through the experience of obstruction of Parliamentary functions and proceedings.

During the era of the British Mandate, obstruction was different from what it is now. At that time the Members of the Legislative Council (the House of Parliament now) could not but withdraw from the Council in order to place obstacles in the face of the Government in political issues in order to show the incapability of the Government in achieving popular demands. In other issues they resorted to agitation, banging on tables and sometimes to hand fighting.

This used to be dealt with through personal contacts and reconciliation; or by the resort by the Speaker to his authorities provided for in the Internal Regulation re disorder during sessions.

After the era of the British mandate, following are examples of the instances of obstruction and the relevant remedies:

1. Interpellations aiming at offending the Ministers for the purpose of casting doubts on the people's confidence in Ministers and eventually forcing them to resign.

Remedy: The Government carries out all that is embodied in the interpellation which in itself convinces the MPs that the interpellation is not a serious one. However when it is supported by facts, the Government has no alternative but to ask the relevant Minister to resign before a vote of no-confidence in him is case before the House.

2. Withdrawal from the session to ensure that there is no quorum.

Remedy: No remedy for such a case except through behind-the-scenes contacts by the Speaker's Office and the Standing Bureau.

4. Provocation of the Speaker by matters outside the Agenda and the start of arguments for the sake of argument.

Remedy: In such instance, the Speaker resorts to his authorities provided for in the Internal Regulation to stop such violations. If this continues, the Speaker has the right to ask the MP to leave the session. If this persists, the MP is prevented from attending the sessions for one month.

6. Insisting on the discussion of important political issues publicly although this is supposed to be done in closed sessions, for the objective of embarrassing the Government in case it refuses to express its relevant opinion publicly.

Remedy: This situation depends on the wisdom of the Speaker who in such a case closes the session to discuss the issue behind closed doors. If such attempt is not successful, the Government — in the following session — sticks to the Internal Regulation which gives it the right to have the issue discussed in a closed session.

7. The raising of national issues which are vital to the country and the people with the aim of showing the Government as incapable of realising the national aspirations of the country.

Remedy: The Speaker will explain the disadvantages of raising such issues. However if the relevant MPs continue raising such issues, the Government would face such MPs and prove to them that it shouldered

its duties towards the country and the people in the best possible manner in the light of the given circumstances.

8. The printing of publications outside the House related to issues being studied thereby for the purpose of moving the public and adversely affecting people's confidence in the Government.

Remedy: The House brings to the attention of the relevant MPs that this violates the Internal Regulation and consequently such practices outside the House are not covered by the Parliamentary Immunity they enjoy.

9. The utilization of the consideration by the House of the Draft Budget Law to achieve personal gains related to certain needs of the people which the Government cannot positively respond to because of the non-availability of funds, like Social Security, Income, Medicare etc. so as to show that the Government is incapable of meeting the needs of the people.

Remedy: The Government presents data supported by documents and figures to prove that it is perfectly performing its duties within the financial capabilities of the country with no discrimination or bias.

10. To ask the House to form committees to investigate certain unimportant issues to utilize this for personal propaganda and fame.

Remedy: If the Investigation Committee as a legislative organ goes beyond the scope of its function as specified in the Internal Regulation, the Government draws the attention of the House to this violation of the principle of separation between the Legislative and Executive Authorities.

12. Collective resignations submitted by certain groups belonging to foreign political parties with the aim of forcing the Government to follow and adopt certain policies.

Remedy: In such a case the Government would take urgent action to hold by — elections to fill the seats vacant due to said resignations pursuant to the provisions of the Constitution and the election Law.'

Mr. BOULTON (United Kingdom) said that the House of Commons did suffer a little from obstruction. There was no parliamentary way of making it impossible though it had to be kept within reasonable limits. One constraint was the attitude of public opinion; another was the tolerance of other Members to obstructive tactics. It was important that parliamentary procedure should provide sufficient time for debate and safety valves for urgent matters

to be raised. Too structured a system tended to push people into disorder rather than mere tactical obstruction.

The House of Commons was a very busy Chamber, dealing with matters which in a federal system would be dealt with at a lower level. With 650 Members, there was a perpetual shortage of time. Political parties had not been allowed to take over the detailed allocation of time. But the power of the Speaker had been developed so that he ensured fair play and controlled the conduct of debate. To do this, he acted on his personal responsibility using powers derived from events over one hundred years previously.

To deal with filibustering, the Speaker had the power to accept or refuse a motion for the closure of debate. Such a motion had to be passed by a majority with at least a hundred Members voting in favour to be effective. Multiplication of amendments was dealt with by the Speaker's power of selection, which was exercised on the advice of the Clerk. The Speaker could also refuse to allow a division of the House if it was unnecessarily claimed, though such power was used only rarely. Prolonged questioning of Ministers could be curtailed by the Speaker when he felt the House should move on to its next business.

On two or three occasions a year, the Opposition decided to contrive some obstruction of parliamentary proceedings. This was usually a strategic decision to delay proceedings on legislation and in response to it, the Government would table a Guillotine Motion to allocate time for consideration of the rest of the Bill. When such a Motion had been passed, a whole new mood would govern the subsequent conduct of proceedings on the Bill. Absenteeism was no problem in the House of Commons because there was no quorum for a debate to be held. A low quorum of 40 out of 650 Members was necessary for a decision to be taken on a vote. On the whole, the Speaker did not often have to use his powers in these ways.

Mr. SAUVANT (Switzerland) said that in the National Council each Deputy was limited to speaking for only 10 minutes apart from spokesmen of political groups. In practice, Members spoke for only 5 minutes and no one could speak more than twice. Thus it was not possible to filibuster. In the State Council, there was no limitation on the length of speeches, but in practice Members spoke for only a very short time. Procedural Motions were not used as means of obstruction because they required the support of a majority of the Members present. Demands for roll-call votes had become more frequent, but they were used less as a means of obstruction, and more as a way of strengthening attendance and reinforcing group loyalty. Although it was possible for a number of Deputies to walk out of the Chamber, this

would not prevent a decision being reached since the quorum required by the Constitution is determined at the beginning of the sitting.

There was thus no deliberate obstruction of the work of the Federal Assembly. This was as much a result of the Swiss political system as of strict procedural rules. Unlike many other countries with a parliamentary system, Switzerland did not have two or three main political parties and opposition groups, but several parliamentary allowances which tended to support the government and had relatively weak group discipline.

'No deliberate obstruction of the work of the Federal Assembly'

Mr. HADJIOANNOU (Cyprus) said there was no experience of obstruction in the Cyprus Parliament. Legislation was dealt with almost entirely in Committees where long speeches could not be made. Lengthy speeches on general topics on the floor of the House did not impede decision-making and therefore were not obstructive.

Mr. BAKINAHE (Rwanda) said that it seemed to him that obstruction was frequently used in parliaments with a multi-party system, but in Rwanda where there was a single-party system it very seldom occurred. Nonetheless, parliamentary procedure did provide measures to prevent such obstruction. The Speaker could order a Member who became irrelevant to stop speaking or time limits could be imposed on speeches if necessary. There was also a quorum. Such procedural rules were available for use if required.

Mr. LUSSIER (Canada) remarked on the fact that the introductory note said that obstruction was extremely rare in the Bundestag and yet of the tactics of obstruction listed only one was prevented by the Bundestag's rules. In Canada, the tactic of protracted hearings could lead to delays in legislation.

Mr. CHARPIN (France) said that there was much experience in his country of obstruction. He envied the Swedish and Swiss for the absence of obstruction in their parliaments. Although all the methods of obstruction listed in the note could be used in France, the most common method of obstruction was a different one, namely the tabling of multiple amendments for discussion in the plenary. Even amendments which had been rejected in Committee could be tabled again for consideration on the floor of the House. Up to 7,000 amendments had been tabled for some Bills. Each of these were dealt with by a 5 minute speech by the proposer, a response from the rappor-

teur, and a reply from the government. The proposer could then insist on a vote on the amendment. Thus each amendment took from 10 to 15 minutes to be dealt with. There was no means in the Senate of fighting this tactic, and it was recognised that the rights of minorities to propose amendments had to be protected. The majority was naturally reluctant to tamper with the rights of the minority, and had therefore refrained from seeking to ban the multiple tabling of amendments. This was the main form of parliamentary obstruction in France.

Mrs. LEVER (Canada) said that although numerous amendments including ones negatived in committee could be tabled in the Canadian House of Commons, the Speaker had discretion to group or set aside amendments for the plenary. One method of obstruction, was to move the previous question (that 'the Question be now put'). Such a motion was itself debatable but if passed, the business to which it related was decided forthwith. There were two means of controlling filibustering in Canada: first, time limits could be imposed on debates, giving 40 minutes to the lead speaker and 20 minutes to subsequent speakers; secondly, motions could be passed allocating the total time for consideration of particular items. Most of the other methods of obstruction listed in the introductory note were also found in Canada. They tended to be used particularly on the report stage of contentious Bills. If the quorum (of 20 Members) was challenged, the division bells would ring for up to 15 minutes and if less than 20 Members were present, at the end of that time the House would adjourn. She asked what the meaning of interpellations was?

Mr. CHARPIN said that interpellations, as a means of questioning the government, had been widely used in the Third French Republic but not in the Fourth and Fifth Republics.

The PRESIDENT said that an interpellation was a question to a Minister followed by a debate as used in the House of Lords but not in the House of Commons of the United Kingdom.

Dr. ROLL said that he would convey to Dr. Biicker the information gathered in the discussion. The term 'obstruction' was vague and had different meanings in different countries. The discussion had shown a distinction between parliaments which were fortunate enough to have no obstruction and others in which it was a normal feature of parliamentary life. The list of tactics in the introductory note was not an account of the actual problems in the Bundestag, but a theoretical list of minority rights which could be used as obstruction. There had been some recent allegations of small parties misusing minority rights but the usual constraints of the discipline and tolerance of

Members and the powers of the speaker normally kept such activities within what was regarded as the acceptable price for parliamentary liberties. He understood that Dr. Buecker would be prepared to draft a questionnaire on this subject.

Mr. BOULTON said that the questionnaire should concentrate on the narrow subject of obstruction and not go into wider aspects of disorder which had been discussed, in the context of interjections, at the Berlin session in 1980.*

The PRESIDENT thanked Dr. Roll for his remarks and noted the general agreement that there should be a questionnaire and report on this subject.

ANNEX 1

Note by Mr. Martins De Oliveñra (Brazil)

1. Concerning "obstruction" within the Brazilian Chamber of Deputies, the answer is "yes". There is and it is frequent, usually of the type you name "tactics", but also of the "principle" type.
2. As to the measures to diminish obstruction we think the "format" of our rules help to keep it to a certain extension. Rules prescribe all session times for speech to be proportional, b) they are fixed to a limit at all instances; c) each part of session is also limited; d) there is term limit for certain bills — those which could eventually be subject of obstruction to be either approved or rejected.

As you will see "filibustering" is thus impossible and "audiences" kept to those prescribed in the Rules about absenteeism, interpellations of the "Speaker" in the form of motions of procedure are frequent.

Except for absenteeism this is also being true for the National Constituent Assembly, when motions of procedure are being used to keep the Committee work up to the last moment of its term period. In one Committee, namely that of Family, Educations and Minorities Rights there was so much obstruction that it was impossible to achieve a final document. The issue went "at the state it was" to the next step prescribed in the Rules for the process.

* (Published in 'Constitutional and Parliamentary Information' Nos. 125-6: 1st and 2nd quarters 1981).

ANNEX 2

Note by Mr. Hjortdal (Denmark)

Obstruction in the sense of the minority effectively blocks the proceedings of the Chamber or a Committee cannot occur in the Folketinget. The main reason for this is that according to the Rules of Procedure the Speaker and, or, the majority of the Chamber (or a Committee) may apply sanctions or pass a motion of closure in case a Member or a minority group of Members tried to obstruct the proceedings by filibustering, for instance. Furthermore, the time for speaking laid down in the Rules of Procedure make it almost impossible to prolong the debates with the aim of obstructing or paralysing the decision-making power of the Chamber. In a Committee, the majority may also end the deliberations on the matter (a Bill or a draft Resolution) simply by deciding to submit a Committee report to the Chamber.

Report on the obstruction of parliamentary proceedings

prepared by Dr. Joseph Biicker, Secretary General of
the German Bundestag

1. Introduction

The Association dealt with the problem of obstruction on 14 October 1987 in a topical debate during the conference in Bangkok. It was agreed on that occasion that the matter be pursued further by means of a short questionnaire. The questionnaire was approved on 12 April 1988 at the meeting in Guatemala City and afterwards circulated to the Members of the Association. The draft report was discussed at the meeting in Sofia and was adopted on 14 March 1989 at the meeting in Budapest.

In the report replies from the following Parliaments are included:

- Australia (Senate, House of Representatives)
- Austria (Nationalrat/Bundesrat)
- Belgium (Sénat, Chambre des Représentants)
- Brazil (Camera dos Deputados)
- Canada (House of Commons)
- Cyprus
- Denmark
- Egypt
- European Parliament
- Federal Republic of Germany (Bundestag/Bundesrat)
- Finland
- France (Assemblée Nationale)
- Greece
- Iceland
- Indonesia
- Ireland (Dail Eireann)
- Israel

- Italy (Senato, Camera dei Deputati)
- Japan (House of Representatives, House of Councillors)
- Jordan
- Kenya
- Korea
- Marocco
- Netherlands (Second Chamber)
- Norway
- Poland
- Portugal
- Rwanda
- Spain (Senado)
- Sweden
- United Kingdom (House of Lords, House of Commons)
- Uruguay (Senate)
- USA (House of Representatives)

2. Definitions

First of all, obstruction must be distinguished from disorderly conduct. The relevant passage in Erskine May's "Parliamentary Practice" reads as follows: A Member who "abuses the rules of the House by persistently and wilfully obstructing the business of the House, that is to say, who without actually transgressing any of the rules of debate, uses his right of speech for the purpose of obstructing the business of the House by misusing the forms of the House, is technically not guilty of disorderly conduct." The main point is that obstruction does not consist in a formal violation of the Rules of Procedure; it is a conduct which, in formal terms, complies with the procedural rules, but still constitutes an abuse of the forms. As a rule, such abuse is designed to delay or prevent parliamentary decisions.

Whenever it is stated that a certain conduct or behaviour constitutes an abuse of the forms, this presupposes a judgement which will naturally not always be generally supported. While a Member of the Majority Party, perhaps hoping to secure early and smooth passage of a bill, may regard the actions of other Members under the Standing Orders as obstructive, minority Members may see exactly the same actions as a legitimate and reasonable exercise of the rights of Members. It cannot be the purpose of a report of the Association of Secretaries General of Parliaments to decide on such differences. For the purposes of this study it will therefore be assumed that we are

concerned with obstruction only in those cases in which a statement to this effect has been made by an appropriate body of the Parliament concerned, or if this is at least the general opinion of the Parliament concerned.

Finally, attention should be drawn to the distinction between tactical obstruction and obstruction in principle: we are concerned with obstruction in principle whenever the manoeuvrings aimed at delaying or preventing parliamentary decisions are ultimately due to the fact that the principles of parliamentarism, and above all the majority principle, are called into question as such. The parliamentary rules of procedure are obviously unable to provide any adequate instruments for combating this anticonstitutional obstruction. Compared to obstruction in principle, tactical obstruction is far more harmless. It is merely concerned with achieving successes in everyday politics. This aim is achieved if the vote on a bill has to be postponed, for example. For obvious reasons, this form of obstruction too is mostly used by a parliamentary minority. However, a parliamentary majority can also practise obstruction, for example by preventing certain debates and votes in order to prevent its internal controversies from becoming public.

This report only deals with tactical obstruction. It does not cover obstruction in principle and does not go into wider aspects of disorderly conduct of Members.

3. Parliaments with no obstruction

In the following Parliaments obstruction in all its various forms is practically unknown.

- Cyprus
- Federal Republic of Germany (Bundesrat)
- Netherlands (Second Chamber)
- Norway
- Poland
- Rwanda
- Sweden
- United Kingdom (House of Lords)
- Uruguay (Senate)

There are manifold reasons for the absence of obstruction in these Parliaments, such as a one-party system (Rwanda), constitutional time-limits for legislative work (Federal Republic of Germany, Bundesrat), self-discipline of

Members and precise arrangements for the duration of debates and speeches (Netherlands, Norway, Sweden).

4. Parliaments with occasional obstruction

4.1. General remarks

It should be emphasized that in no Parliament does obstruction seriously hamper the conduct of parliamentary business. The following Parliaments have reported about occasional cases of delaying tactics, however:

- Australia (House of Representatives)
- Austria (Nationalrat/Bundesrat)
- Belgium (Sénat, Chambre des Représentants)
- Brazil (Camera dos Deputados)
- Canada (House of Commons)
- Denmark
- European Parliament
- Egypt
- Federal Republic of Germany (Bundestag)
- Finland
- France (Assemblée Nationale)
- Greece
- Iceland
- Indonesia
- Ireland (Dail Eireann)
- Israel
- Italy (Senato, Camera dei Deputati)
- Japan (House of Representatives, House of Councillors)
- Jordan
- Kenya
- Korea
- Marocco
- Portugal
- Spain (Senado)
- United Kingdom (House of Commons)
- USA (House of Representatives)

It seems that obstruction is used above all in the course of deliberations on particularly controversial bills in which the public too shows considerable interest.

An interesting distinction is obviously made in the Italian Senato. Accordingly, a certain amount of obstruction is considered to be politically entirely acceptable if it merely serves to delay a decision slightly or to wrest certain concessions from the majority. The purpose of obstruction of a more pronounced form, by contrast, is to prevent the passage of a law. A similar approach seems to be adopted in Australia where obstruction is considered part of the game (House of Representatives), and delaying tactics are also not perceived as being an abuse of the formal procedures (Senate). In the United Kingdom (House of Commons), too, anyone opposing a matter before the House can use obstruction as a legitimate parliamentary tactic.

4.2. Filibustering in the course of debates

4.2.1. Filibustering is generally unknown in Parliaments with standing orders which stipulate time-limits for debates and individual speeches. The possibility to move the closure of the question or the closure of a Member restricts filibustering, but does not rule out this tactic.

The following Parliaments expressly reported occasional cases of filibustering, despite the restrictions that have just been mentioned: Austria (Nationalrat), Australia (Senate), Canada (House of Commons), Finland, Italy (Senato, Camera dei Deputati), Japan (both Houses), United Kingdom (House of Commons). A similar effect to excessively long speeches, or filibustering, can be observed in those cases in which a particularly large number of speakers of a parliamentary group enter their names in the list of speakers (e.g. Greece).

4.2.2. Examples:

- Austria (Nationalrat): Only a short time ago there was one single case of extreme filibustering for 9 hours during a debate with the declared purpose of preventing or delaying the decision. There was no possibility to intervene, because guillotine motions must be passed in advance of the debate.
- Canada (House of Commons): The filibuster is seldom used in the traditional sense in the Canadian House. Only under certain circumstances can a Member speak for an unlimited amount of time. The Prime Minister,

the Leader of the Official Opposition and Ministers of the Crown moving Government Orders (or their parliamentary secretaries) may make speeches of unlimited length. An Opposition Member speaking in reply immediately after such a Minister or parliamentary secretary may also speak for an unlimited time and it is on these occasions that the Opposition will normally resort to a true filibuster, though very long speeches (over three hours) are quite rare in the Canadian House. In any event, the Government can always resort to motions for time allocation or to the moving of the previous question to curtail debate. In all other circumstances the Standing Orders restrict the length of time a Member may speak. Therefore the tactic which has developed in the Canadian House is to ensure that all Members of a Party speak in debate. It is thus not a filibuster by an individual but a prolonged debate by a party which is most often used. Both the Government and the Opposition use this method to delay decisions or stretch out proceedings. The Government frequently uses this tactic to kill certain items of private Members' business which have been allotted only one hour for debate. If no decision is reached within that time, the item is dropped from the agenda of the House.

4.3. Explanations of vote

4.3.1. In many Parliaments explanations of vote are totally unknown as a procedural instrument. Occasional cases of obstruction by means of this procedural device are reported from Brazil, the Federal Republic of Germany (Bundestag), Italy (Camera dei Deputati), Kenya, Marocco and Portugal.

4.3.2. *Examples:*

- Federal Republic of Germany (Bundestag): in 1983 prior to the vote on NATO's dual-track decision, a total of 24 members of one of the opposition parliamentary groups made statements each lasting up to five minutes. These statements were widely considered an abuse of the forms because they were merely a repetition of the parliamentary group's known viewpoint rather than explanations of vote. After this incident, efforts were made to amend the relevant section in the Rules of Procedure (see 6.2.2.).
- Italy (Senato): for explanations of vote, one speaker from each parliamentary group has a total of 15 minutes at his disposal. Each individual Senator may speak for the same length of time if his vote differs from

that of his parliamentary group. Where it is a matter of delaying proceedings, this device is used in such a way that the Senator concerned merely explains why he is abstaining. As a result, this is a case of simulated departure from the parliamentary group's position.

4.4. Procedural motions

4.4.1. Procedural motions are an instrument of obstruction in the following Parliaments, even though in most of them this device is rarely used:

Canada (House of Commons), Brazil, France (Assemblée Nationale), Federal Republic of Germany (Bundestag), Indonesia, Italy (Senato, Camera dei Deputati), Japan (both Houses), Korea, Portugal, United Kingdom (House of Commons).

The purpose of such motions is to slow down the pace of the deliberations on the regular items by statements explaining the reasons for these motions and by voting.

4.4.2. *Examples:*

— Canada (House of Commons): Since the House has an automatic adjournment every day, any tactic which can consume the time of sitting up to the time of automatic adjournment may thus be termed obstructive. One of the most commonly used methods of the consuming of time in this fashion centres around the period of daily business known as Routine Proceedings (e.g. tabling of documents, presentation of ministerial statements, introduction of bills) which on most days precedes the calling of government business. One of the approaches of the Opposition to slow down Routine Proceedings is the moving of procedural motions with a view to forcing time consuming roll-call votes (recorded divisions). Such motions can only be moved by a Member who legitimately has the floor and are frequently not debatable. The most common motion of this nature is the motion to adjourn either the House or the debate, but other motions, such as for reading the Orders of the Day, can have a similar dilatory effect. In 1986 in the events surrounding a bill to amend the Patent Act fourteen procedural motions of various types were moved (eleven motions during Routine Proceedings); some of these motions were moved for obstructive purposes.

- Federal Republic of Germany (Bundestag): A few minutes before expiry of the relevant time-limit, an opposition parliamentary group submitted a total of 110 motions on 20 February 1986, in which it asked for additional items to be placed on the agenda of the next plenary sitting. These motions were obviously designed to prevent the deliberations on the highly controversial law on passports and the law on identity cards by means of a large number of debates on these procedural motions.
- France (Assemblée Nationale): Theoretically procedural motions can be used to delay proceedings (inadmissibility of the draft law because it is incompatible with the constitution, inadmissibility of the deliberations, referral back to a committee). There is no time-limit for stating the reasons for such motions.
- Japan (both Houses): Obstruction occurs by submitting a motion for temporarily suspending or adjourning the sitting for the day, a motion for altering the order in the Order of the Day or a resolution to dismiss the Chairman of a Standing Committee from his post.
- United Kingdom (House of Commons): The motion that the debate be now adjourned is itself debatable, so it can be used as a delaying tactic.

4.5. Points of order

4.5.1. In most Parliaments Members are able to raise points of order and appeal to the President, urging compliance with the standing orders and practices of the House. From the replies sent in by the following Parliaments it appears that points of order are used to delay proceedings, though to differing degrees: Canada (House of Commons), Egypt, France (Assemblée Nationale), Israel (Knesset), Italy (Senato), Portugal, United Kingdom (House of Commons).

4.5.2 Examples:

- Canada (House of Commons): Debate on points of order and alleged questions of privilege has on occasion actually lasted for days. Recently, a point of order concerning the procedural acceptability of a government motion to extend the days and hours of the sittings of the House in July, August and September of 1988 was debated over three days and decided on by the Speaker in a lengthy ruling delivered on a fourth day (7-13 June 1988).

- France (Assemblée Nationale): Points of order interrupt the ongoing deliberations; every Member who so wishes must be given the floor, so it is very easy to take up the time of the assembly with points of order. The President has the power to discontinue the speech, if he thinks that the intervention is not a real point of order. The sitting must be interrupted, too, if this is demanded by the Chairman of a parliamentary group or in his name. The president decides on the duration of the interruption. Thus, in 1985 the deliberations on a contentious bill on working time were interrupted 21 times in all for a total of six hours.
- Israel (Knesset): Multiple requests for points of order are used as a form of obstruction. Requests (except for those regarding voting) must be submitted in writing. If the Chairman agrees to the request, the Member is allowed to speak for one minute. The Chairman decides to accept or reject the motion.
- United Kingdom (House of Commons): Points of order are used to air grievances and can delay proceedings for a short while, but the Speaker can refuse to take further points of order, so this is not a means of major obstruction.

4.6. Large number of amendments and subamendments

4.6.1. In most cases amendments of the Opposition to major legislation would be regarded as entirely reasonable and constructive and as evidence that the Opposition had gone to the trouble of formulating and agreeing on detailed alternatives to put before the House. Especially in Canada (House of Commons), in the European Parliament and in France (Assemblée Nationale), however, the large number of amendments occasionally appears to create problems. However, Austria (Nationalrat), Brazil, Finland, Iceland, Israel, Italy (Senato, Camera dei Deputati), Japan (both Houses), Spain (Senado) and the United Kingdom (House of Commons) also report that in some cases the purpose of amendments could be to obstruct parliamentary proceedings.

4.6.2. Examples:

- Canada (House of Commons): Any Member after appropriate notice may present an unlimited number of amendments to the bill. This has been

very effectively used on a number of occasions. In the autumn of 1983, 174 motions in amendment to a Bill respecting the Western Grain Transportation Act, were placed on notice and the debate on these stretched over sixteen days between September 29 and November 3. The bill was finally concurred in at report stage after the Government had limited debated. In 1987, 97 motions were placed on notice at the report stage of a Bill respecting National Transportation. In July 1988, 142 motions in amendment to a Bill respecting Official Languages, were placed on the Notice Paper. During debate on each motion or group of motions (the Speaker has the power to group motions for debate under the Standing Orders) every Member may speak for ten minutes.

- European Parliament: It has been known for hundreds of amendments to be tabled so as to inordinately prolong a vote and disrupt parliamentary business, this tactic probably falling into the category of self-publicity.

- France (Assemblée Nationale): In connection with a number of contentious bills introduced in the last few years, a large number of amendments were proposed. This applies, for example, to the bill on the nationalization of large companies (October 1981) with 1483 amendments; the bill on higher education (May/June 1983) with 2204 amendments; the bill on the press law (December 1983-January 1984) with 2598 amendments; and the bill on the statute governing Renault (December 1987) with 3800 amendments. The debate on amendments takes the following course: the reasons for the amendment are stated by the sponsors, the appropriate committee and the government comment on the amendment, possibly with one speaker opposing the amendment and, after a decision by the President, another speaker replying on behalf of the committee or the government. On average, 10 to 15 amendments can be dealt with in one hour, which means that a full week is required to deal with 1000 amendments.

- Iceland: As a rule amendments are not used for the purpose of obstruction. There is, however, a recent example where an amendment was introduced at the final discussion of a controversial matter towards the very end of a session. The Althingi is a bicameral legislature, and if any amendments to a bill are passed in the second House the bill returns to the house of origin where its opponents could easily have delayed it until the end of the session.

4.7. Votes

4.7.1. Calling for time-consuming methods of voting (roll-call, recording of names, recorded division, separate votes on every section of a bill) seems to be a rather popular means of delaying proceedings. This device is at least occasionally used in the following Parliaments: Australia (Senate, House of Representatives), Brazil, Canada (House of Commons), European Parliament, Federal Republic of Germany (Bundestag), Greece, Ireland (Dail Eireann), Italy (Senato), Japan (both Houses), Kenya, United Kingdom (House of Commons), USA (House of Representatives).

4.7.2. *Examples:*

- Canada (House of Commons): An approach frequently taken by the Opposition to obstruct is to force recorded divisions on leave of the House to introduce a bill and on the first reading motion of private Members' bills. Under normal circumstances these motions are merely formalities, with no objection made or vote taken. Such votes can be very time-consuming. The Standing Orders stipulate that the division bells shall be sounded for thirty minutes for such non-scheduled votes after which the recorded division is taken usually requiring another fifteen minutes. Without the unanimous consent of the House to waive the ringing of the bells calling Members to the Chamber for the second division, the bells will be rung again for another thirty minutes. In this way much of the time available for Government business can be consumed before the fixed adjournment hour. An example of this tactic occurred recently. Between June 8 and 22, 1988, Opposition Members attempting to slow the business of the House introduced eight Private Members' bills and forced fifteen recorded divisions on motions for leave to introduce and first reading.

An interesting twist on using recorded divisions as a means of obstruction has recently emerged. The Standing Orders of the House allow for the deferral of recorded divisions on debatable motions at the request of either the Chief Government Whip or the Chief Opposition Whip. This can be done until 6:00 p.m. the next sitting day or if requested on a Thursday or Friday until 6:00 p.m. on the next Monday. By deferring a recorded division on an amendment or subamendment the entire item can be removed from debate for as much as three sitting days.

- Federal Republic of Germany (Bundestag): Votes using voting cards bearing Members' names, in the course of which each Member places his voting card in an urn provided for the purpose, last approximately six minutes. In 1986 one of the opposition parliamentary groups requested such a vote for a total of 51 amendments. Altogether this would have taken five hours, excluding the counting of the votes. To shorten the procedure, another form of voting was agreed upon ad hoc, as a result of which a vote was taken not only on these 51 amendments but on all the 210 amendments to this Bill that had been submitted. Each Member was given a voting card bearing his name on which all the amendments were listed and given specific numbers; in each case, it was possible to mark "Yes", "No" or "I abstain". Moreover, there was the possibility of voting on all the amendments as a package, for which most Members opted. The vote lasted only 25 minutes.
- Japan (both Houses): At open ballots Members opposing the bill sometimes move to and from the ballot box at an almost imperceptible pace. There is a case where it took about five hours to vote at an open ballot.
- United Kingdom (House of Commons): A full vote takes between 10 and 15 minutes (in the House of Lords about 8 minutes) and Members do sometimes delay proceedings by calling for full votes on every amendment or motion. Some short delay can be achieved by Members leaving the voting lobby very slowly; this is only effective if the time-limits on business give an opportunity for a brief delay to frustrate a particular amendment. The Speaker has deprecated this practice.
- USA (House of Representatives): Repeated series of votes may serve to delay the final consideration of legislation. The brief time limit imposed by electronic voting, however, limits the utility of this sort of obstruction. The effective period of delay normally amounts to a matter of hours or perhaps, an extra day.

4.8. Interpellations and questions

Apparently interpellations and questions to Ministers are not used by Members as a tactic to obstruct parliamentary proceedings. It could be, however, that Governments, in the limited amount of time available in Question Time, occasionally seek to avoid embarrassing questions by giving very long and detailed answers. This point is mentioned in the reply of the Indonesian Parliament.

4.9. Committee proceedings and hearings

Prolonged committee debates can delay legislation. This applies particularly in those cases where the committees, in the course of their deliberations on bills, also hear experts and witnesses. In the Federal Republic of Germany (Bundestag) such a hearing on bills and motions can be demanded by one quarter of the committee members. In the course of the last few years, at least the majority has gained the impression that these minority rights are used too often.

Another problem is reported from the Knesset (Israel) where delays occurred because a bill was passed between several different responsible committees. The Knesset had to introduce a procedural change to limit this form of obstruction.

4.10. Quorum

4.10.1. Absenteeism and questioning the quorum cannot be used as an obstructive tactic in Parliaments which, like the Knesset, do not require a quorum. Almost the same applies in Parliaments with a clear government majority or where only comparatively few Members need to be present for a quorum to exist. However, there are still a large number of parliaments in which these devices are occasionally used: Australia (Senate, House of Representatives), Belgium (Chambre des Représentants), Brazil, Egypt, European Parliament, France (Assemblée Nationale), Greece, Iceland, Indonesia, Italy (Senato), Kenya, Korea, Marocco, Spain (Senado), United Kingdom (House of Lords).

4.10.2. Examples:

- Australia (Senate): When a government's legislative program on any sitting day is concluded, the government has been known deliberately to call a quorum to embarrass the Opposition.
- European Parliament: If at voting time a request that the quorum be established is made by at least 13 Members and fewer than one third of the current Members of Parliament are present, the vote in question is deferred until the next sitting (which may mean the next part-session). In practice, Members are generally present in substantial numbers for all votes except those on Friday mornings and it is only on these latter occasions that this tactic has been used.

- France (Assemblée Nationale): Questioning the quorum is a prerogative of the parliamentary group chairmen. If there is no quorum or, in other words, if the absolute majority of Members is not present, the vote in question cannot be taken. It may be repeated one hour later at the earliest or, under certain circumstances, only the next day.
- Greece: As a result of a constitutional amendment of 6 March 1986 it is no longer possible to question the quorum; instead Members may now demand a recorded division. In this recorded division, the majority must be at least one quarter of the statutory number of Members.
- Iceland: It happens very rarely that Members abstain from voting by a show of hands even when they are present at the meeting in order to prevent a quorum from being reached. In such cases a roll-call must be held where abstaining Members are counted as part of the quorum.
- United Kingdom (House of Lords): The quorum of the House is three. However, if a division is called and fewer than thirty Lords vote, the question is not decided and the House proceeds immediately to the next business on the order paper. It has occasionally happened that, when a division has been called, the opposition has refrained from voting in order to terminate the business of the day sooner than the government would have wished.

4.11. Examples of other forms of obstruction

- Belgium (Chambre des Représentants): The consultation of the Conseil d'Etat on the text of a bill or an amendment is obligatory, if it is demanded by at least 71 Members or by the majority of a linguistic minority group. In the committees the deliberations are not suspended by such a demand, however, the committees are not able to finish their work. In the Plenary the deliberations are suspended in such a case, unless it is decided otherwise.
- Canada (House of Commons): Another method used by the Opposition to consume the time of the House during Routine Proceedings is through the presentation of public petitions. In presenting petitions Members may state the number of signatories, and their place of residence as well as give a summary of the petition. There is no restriction on the number of petitions presented or the number of Members presenting petitions. During the events surrounding a very controversial bill amending the

Patent Act the presentation of petitions was used quite extensively by the Opposition. On November 6, 1986 nineteen Members presented twenty-three petitions; on November 7, 1986 thirteen Members presented thirteen petitions; on November 24, 1986 nineteen Members presented fifty-four petitions; on April 9, 1987 nineteen Members presented one hundred and one petitions; and on April 10, 1987 twelve Members presented forty-four petitions.

- European Parliament: A viable time-wasting tactic is the request for an item to be referred back to committee, which can be made by any Member at any time during the debate before the final vote begins. However, such a motion can clearly only succeed if a majority of the Members present vote in favour.
- United Kingdom (House of Commons): The multiple presentation of petitions has been used recently to delay the start of private Members' legislation when that is particularly contentious. An amendment to the Standing Orders to limit this practice has been put forward but not yet agreed to. A Member can delay proceedings by calling for Strangers (Visitors, the Press and Official Reporters) to withdraw. This leads to an immediate vote and thus delays proceedings for 10-15 minutes.

5. Obstruction as an instrument of the Opposition

Obstruction is almost exclusively practised by the Opposition Party or by minority groups within the Opposition Party. Where there are several Opposition Parties, they occasionally take joint action. By contrast, obstruction by individual Members is rare. The same applies to obstruction by the Majority Party, because it has other means of influencing parliamentary proceedings at its disposal. The Danish Folketing however reports that majority obstruction may take place when the majority on a committee delays the deliberation of an Opposition bill. In the United Kingdom (House of Commons) back-benchers of either party practise obstruction in relation to Private Members' business.

As far as individual contentious bills are concerned, obstruction is very often not limited to a particular stage of the proceedings but is, where possible, used at all stages of the legislative process. Obstruction occurring toward the end of a legislative session is likely of course to have a greater impact.

6. Control of obstruction

6.1. General remarks

The best way to forestall obstructive tactics no doubt consists in taking adequate account of the interests of the Opposition in preparing and implementing parliamentary proceedings. In most Parliaments the parliamentary groups have therefore set up formal or informal bodies charged with working out agreements to this end.

Where no agreement can be reached, the Government, the Majority Party and the President have many possibilities of reacting to obstruction on a case-by-case basis. As a rule, these possibilities are provided above all by the Constitution, the Standing Orders or Parliamentary Practice.

Both the British Government (House of Commons) and the French Government (Assemblée Nationale) find themselves in a particularly strong position. In the House of Commons the principal factor that prevents obstruction of the Government's business is the power of the Government to determine the agenda. In the Assemblée Nationale too, the Government has absolute priority as far as the determination of the agenda is concerned. Apart from a few exceptions, however, it is unable to influence the duration of the deliberations. This does not apply where it links the vote on a bill with a motion asking for a vote of confidence. In this case, the debate is immediately suspended. Pursuant to Article 49 (3) of the constitution a law is deemed to have been adopted if no motion of censure (motion de censure) is tabled within the next 24 hours; if such a motion of censure is tabled and rejected, the law is likewise deemed to have been adopted.

In most cases the Majority merely reacts on an ad-hoc basis to obstruction and does not seek to bring about an amendment of those provisions of the Standing Orders which further obstruction. In Canada (House of Commons), however, some methods of obstruction available to the Opposition have been curtailed during the course of the present Parliament through amendments to the Standing Orders, which was done by unanimous consent.

In practice, however, the various rights and powers of the Speaker play the most important role in containing obstructive tactics. An exception is the House of Lords (United Kingdom), where the Speaker has no controlling powers. In Brazil the President has no such powers either. In the Italian Senate the President has traditionally made only sparing use of his possibilities of intervening so as to do justice to his task of protecting minorities.

In the USA (House of Representatives) the Committee on Rules is empowered to direct the structure of floor debate on legislation. It can shape the debate as well as the kinds of amendments the will be allowed consideration. In certain cases, the Rules Committee may prevent a bill from coming to the floor. So this committee is an ally of the majority party's leadership.

6.2. Examples

6.2.7. *Filibustering*

Primarily the following measures are used against filibustering:

- Allocation of Time or "Guillotine" Motions. These motions are quite common in many Parliaments (e.g. Japan (both Houses), United Kingdom (House of Commons)). They are passed in the ordinary way and allocate time to, or limit the length of speeches on certain items of business. In Ireland (Dail Eireann) in the case of Bills, the "guillotine" may be used to dispose of all remaining stages by one question covering only government amendments. Where this procedure is used, opposition amendments to later parts of a Bill cannot be discussed.
- Closure of debate. In the House of Commons (United Kingdom) such a motion has to be passed by a majority with at least 100 Members voting in favour to be effective. The motion is not itself debatable and, if accepted by the Speaker, must be decided forthwith. In Ireland (Dail Eireann), in Kenya and in the United Kingdom (House of Commons) the Speaker may reject motions for closure of debate which, in his view, constitute an abuse of the forms. In Denmark and in Belgium (Chambre des Repr^esentants) the Speaker may propose the closure of any debate if he feels that the debate is unduly dilatory in spite of the other restrictions on the duration of speeches.
- Motion that the Member be no longer heard. In the House of Lords (United Kingdom) this motion, which may be debated, is a weapon of last resort and has only been used eleven times this century.
- Motion to declare a bill "urgent" (Australia, House of Representatives) or a decision to this effect by the government (Greece).
- The Speaker calls upon the Member who has the floor to come to an end if the House is sufficiently informed (France, Assemblée Nationale); the situation is similar in Ireland (Dail Eireann), Spain (Senado) and United Kingdom (House of Commons).

- After at least two speakers have expressed opposing viewpoints the deliberations on an individual clause may be closed (France, *Assemblée Nationale*); the situation is similar in Spain (*Senado*). In Iceland the Speaker is empowered to set time limits on debates, but these powers are rarely exercised.
- Order not to raise the same subject again, when a large number of non-confidence resolutions are submitted (Japan, both Houses).

6.2.2. *Explanations of vote*

In 1983 there were problems in the Federal Republic of Germany (*Bundestag*) because it was possible for explanations of vote to be made in large numbers prior to voting (see 4.3.2). The Committee on the Rules of Procedure tried to solve this problem by suggesting that it should in future be possible to make such explanations of vote only after a vote. The President initially complied with this recommendation and thus set in motion a highly controversial dispute on the interpretation of the rules of procedure which lasted until 1986. Since then, a Member of Parliament who wishes to make an explanation of vote is, as a rule, given the floor prior to voting. In the Netherlands (*Second Chamber*) explanations of vote may be given after the actual vote. It is however within the Speaker's power to allow explanations immediately prior to the vote.

6.2.3. *Procedural motions*

The following restrictions are used in practice as far as procedural motions are concerned:

- Rejection of procedural motions which constitute an abuse of the forms by the Speaker (e.g. Greece, United Kingdom, House of Commons).
- A ban on repetition. In France (*Assemblée Nationale*) certain procedural motions can be tabled only once. In Australia (*House of Representatives*) the Standing Orders provide that if certain procedural motions are defeated no similar proposal may be received if the Speaker is of the opinion that it is an abuse of the orders or forms of the House or is moved for the purpose of obstructing business. In Canada (*House of Commons*) no second motion to the same effect is admissible until some intermediate proceeding has taken place.

- Immediate vote. In Belgium (Chambre des Représentants) the Speaker may decide that a procedural motion is voted upon without any debate.

6.2.4. Points of order

In many Parliaments the Speaker may refuse the further admission of points of order (e.g. United Kingdom (House of Commons) or direct the speaker to discontinue his speech (e.g. France (Assemblée Nationale)).

6.2.5. Amendments

In the House of Lords (United Kingdom), there is no power to refuse an amendment or to cut short debate on an amendment. In many other Parliaments, however, the discussion of amendments can be curtailed in the manner described above (6.2.1).

Moreover, amendments may be subject to the following restrictions:

- appropriate notice of amendments;
- Power of the Speaker to select which amendment should be debated (United Kingdom (House of Commons), or to group the amendments for debate (Canada (House of Commons), Ireland (Dail Eireann), Spain (Senado)).
- One extreme possibility consists in linking a motion for a vote of confidence to the vote on a bill; in this event, no votes are taken on amendments (Italy (Senato)).

6.2.6 Votes

As far as time-consuming methods of voting are concerned, the introduction of electronic voting seems to be an effective remedy. On the other hand, the resultant improvements should not be overestimated either, because this procedure too does take up a certain amount of time. From the replies sent in by various Parliaments, it appears that the following methods are used to limit time-consuming voting procedures:

- France (Assemblée Nationale): Under Article 44 (3) of the constitution the Government may demand that the Assembly votes on the entire text of a bill, or part thereof, in a single vote; in this connection only those amendments are considered that have been introduced or accepted by the Government. While this procedure does not rule out a debate on amendments it can considerably shorten the time needed for voting.

- United Kingdom (House of Commons): If a small number of Members call for full votes on every amendments or motion the Speaker may call for Members to stand on their places after two minutes to decide the matter, rather than to have a division. The situation is similar in Ireland (Dail Eireann).

6.2.7. Interpellations and Questions

In Belgium (Chambre des Représentants) the President may declare inadmissible interpellations which are introduced in the month following the month during which an interpellation on the same subject was dealt with. Another example of measures to control possible obstruction by means of interpellations and questions is reported from the Bundestag (Federal Republic of Germany).

Pursuant to the Standing Orders, the Bundestag may temporarily restrict debates on interpellations to a particular day of the week. This provision has not been applied for many years, however.

6.2.8. Committee proceedings and hearings

The discussion about an excessive number of hearings in the German Bundestag has resulted in a more restrictive interpretation of the Standing Orders by the Procedure Committee. Once a hearing on a bill or motion has been conducted; another hearing can be demanded only if, following the first hearing, the committee has introduced substantive changes in the bill or the motion or decided to broaden its scope.

6.2.9. Quorum

The majority parties have an obvious interest in ensuring that a quorum is present. As a result, calling the quorum into question does not constitute a very effective means of obstruction parliamentary proceedings. In Australia (House of Representatives) Members have even been suspended after calling attention to the absence of a quorum if it has been found that in fact, a quorum has been present. In the USA (House of Representatives) the approach to obstruction by questioning the quorum is not a major factor, because non-voting Members who are present may be considered for a quorum.

In Denmark the parties agree mutually in advance how many of their Members are to be present for votes. A quorum thus always exists in the

Folketing unless such agreements are broken, which has never happened up to now.

6.3. Other constraint on obstruction

Indirect damage being caused to other business is a constraint on obstruction, since the friends of that business will ask their colleagues to desist.

A major constraint appears to be also the pressure of other Members; in the USA (House of Representatives) it is not uncommon for delaying actions to fail near a close of a session simply because the Membership as a whole wishes to end the session and return to their districts.

Adverse media comment and public opinion are also a constraint in many Parliaments. The Knesset (Israel) and the Italian Senate, however, report that in general non-parliamentary constraints are not effective. In the reply of the Australian House of Representatives it is pointed out that there is probably more often concern on the part of the media when it is felt that the exercise of power by a majority is causing legislation to be passed with undue haste or with individual Members or the minority having insufficient opportunities to contribute.

7. Conclusions

Obstruction is one of the less positive sides of parliamentarism known in many parliaments. This applies not only to present, but also and above all to the last century, when we had spectacular attempts at obstruction in Britain, in the Habsburg monarchy and in the USA.

One of the important results of the inquiry is that today we only have occasional cases of obstruction which do not seriously hamper the conduct of parliamentary business. Of course those interested primarily, or even exclusively in the efficiency of a parliament or in its "output" in terms of laws and decisions will consider any form of tactical obstruction a disturbance. The parliamentary majority in particular therefore frequently tends to accuse the parliamentary minority of practising obstruction even in those cases where the minority makes use of its parliamentary rights in a perfectly legitimate fashion. By contrast those who are more orientated towards other functions of parliament, for example its function as a forum of the nation and as a place of political integration, will show greater equanimity in the face of attempts at obstruction.

For those adopting this approach, which I personally favour, amendments of the rules of procedure as a means of fighting tactical obstruction are generally ruled out. The abuse of parliamentary rules in individual instances must not tempt us to upset a balanced system of majority rights and minority protection. Preference should be given to pragmatic measures which deprive obstruction of its effect. In the event of a large number of roll-call votes being moved, a simple solution, for example, would be the introduction of an efficient electronic voting system. It goes without saying that the problem of obstruction cannot always be solved as easily as that. In individual cases the Speaker, or President, must therefore have the possibility of rejecting as inadmissible the abusive use of rights laid down in the rules of procedure. However, the most important agency of control as regards obstruction is the public. This public, which is produced above all by the media, broadcasting and the press, has little understanding for "procedural tricks" and is not prepared to give good political marks for it. For a parliamentary system of government characterized by the openness of its proceedings, obstruction should therefore not constitute a problem. And even if attempts at obstruction are occasionally made, one should always remember that this obstruction is an acceptable price to be paid for carefully defined rights of parliamentary minorities.