

Passing Motion

By Dr Wong Wee Nam

I have not witnessed the passing of motion since becoming a doctor until a recent Sunday when I happened to stumble upon such a session.

As I do not work on Sundays, I could not refuse the invitation of two civil society activists who had invited me for breakfast. There I was, discussing the ills of society with the two of them in a coffeeshop while most of my colleagues were diagnosing the ills of their patients in their clinics.

We talked about everything under the sun; nothing was spared – democracy, freedom of speech, right of participation, justice, equality, Speaker's Corner and so forth. After six roti pratas and four rounds of tea, we would have continued the discussion into lunch if not for the fact that one of my friends suddenly became unwell with abdominal discomfort. This turn of events was not at all surprising to me, seeing the way he had been slurping up the curry gravy like a thirsty puppy lapping up his milk.

We parted company and whether my friend went on to relieve himself or not, I do not know. Even if he had, it was his private affair. I was not a witness to that act and it is not this event that I am talking about here.

As it was lunchtime and I had not made any arrangement to eat at home because of the unpredictable nature of such coffeeshop talks, I decided to make my way to the Alumni Medical Centre. There a buffet lunch was laid out by the Singapore Medical Association to feed those members who had bothered to attend their Annual General Meeting.

After tucking in the food, I thought I should, as a matter of courtesy, repay SMA's generosity by attending the AGM. Moreover, my absence would have been acutely felt, if not by anyone else, at least by the President who happened to be sitting at the

same table with me during lunch.

The first part of the meeting was the usual reports and clarifications. The anaesthetist who had been sitting beside me fell asleep. I do not know if it was out of boredom or due to the gas that he had given to his patients before the meeting. After a while, he decided he could no longer disguise his somnolence and excused himself from the meeting. That was just before the start of the exciting part of the meeting.

A motion or a resolution (I can't tell the difference between the two) had been proposed to amend the Constitution, to make it mandatory for the SMA Council to hear an accused doctor's explanation before lodging any complaint to the Singapore Medical Council, and to conduct a postal referendum of all members if still dissatisfied with the explanation.

The person who had proposed the motion then went on to relate how the SMA had lodged a letter against him with the Singapore Medical Council without given him a hearing. He was moving the amendment because he felt that all members deserved to have a say before a complaint was lodged against a fellow member by the SMA Council.

His speech hit me right at the core of my belief. Having just had justice, equality, fairness and democracy for breakfast, I was incensed by what I felt was gross injustice on the part of the SMA. As a democrat, I have always held the belief that the fundamental rule of justice is that a man has a right to be heard: *audi alteram partem*. This rule has existed since the beginning of time.

In a case *R v University of Cambridge*, one of the judges observed that this rule had first been made in the Garden of Eden. He observed that even Adam had been called upon by God to meet the charge of having eaten from the

forbidden tree, before suffering expulsion. For God's sake, if God was willing to give Adam a hearing why can't the mortals in SMA give a fellow mortal a chance to say his piece?

As the amendment had been introduced because the SMA had allegedly acted in a somewhat high-handed manner, it was only right that Council explained itself. The President of the 38th SMA Council, who had acted on behalf of the SMA Council in the matter, then took the floor. He was a very thorough person and came well-prepared with slides to justify the Council's action.

Unfortunately, before the former President had adequately explained himself, there was a furore of protests and he was forced by the weight of numbers to stop. Though not of the same intensity, the scene faintly reminded me of my student days, when general meetings were exciting affairs where we spewed verbal diarrhoea and passed motions on the chairmen and speakers. As a hot-headed immature student then, I used to enjoy such shows. Now after decades of training and practice in the art of an esteemed profession, I found myself feeling sad at the emotional display of some of my distinguished colleagues.

If the amendment had been proposed purely because of the principle *audi alteram partem* per se, it would have been perfectly in order to stop the former President from bringing up what would then have been irrelevant matters. However, since the motion had been proposed because the past President and his Council had allegedly flouted the rules of natural justice, it was only proper that he be given the right of reply. How could a meeting possibly have the moral authority to pass a motion to give its members the right of reply, when at the same time it denies the same right to another member?

It is as ridiculous as having a campaign to keep toilets clean while soiling them at the same time.

As a neutral person, I had wanted to listen to the defendant for two reasons. The first is because I believe strongly in the principle of *audi alteram partem* where an accused must be given the right to be heard. The second is to hear the other side so that I can vote on the proposed amendment as an informed person. In the history of administrative law, the right to be heard is not an absolute right. There are exceptions. Whether SMA's action came under such exceptions or not, one would not know until one has heard that Council's side of the story.

Yet through "democracy by numbers", the former President's right to reply was denied. The majority had decided he should not speak and he had to stop. Poor man, he must have felt like Socrates. In 399 BC, the great thinker had to drink hemlock because the majority decided that he should do so. Plato considered this abuse by the majority in an Athenian democratic process a symbol of democracy – the unruliness of mass opinion and the perils of mob rule.

I left the meeting thinking of my two friends with whom I had breakfast. They were young idealists with great faith in the democratic process. As I made my way home, I was not sure if I shared their feelings. The meeting was a revision lesson for me in the realpolitik of democracy.

It reminded me of what Patrick Watson and Benjamin Barber had said of democracy: "Yet the rule of the majority can become so cruel, so wrong, so oppressive to individuals and to the minorities, that it perverts democracy itself, and the rule of the people becomes the tyranny of the mob."

The way the former President was gagged was nothing more than using the mass weight or numbers to reach a decision by mathematics.

The late Cambridge Professor Ernest Baker said, "Democracy is not, in its essence (though it is in one of its external forms), a matter of voting. It is not a method of government by counting

heads instead of breaking them. It is a method of government by laying heads together, in a common debate in which all share, to attain a result which as many as possible are agreed in accepting. Dr Johnson once said of a man he admired", "He is a fine fellow, sir; he fairly puts his mind to yours." This saying touches the true significance of democracy. It means, where it succeeds, that we all attain a higher measure of human dignity, because all of us "fairly put our minds" to the minds of others. It means government by discussion; and that is its inward essence. Apart from any system of institutions which it involves, it demands a gift for participation in a rational process of common deliberation.

"To join in a rational process of common deliberation is not an easy thing. It requires a large measure of self-control. Discussion is not a battle, waged with personal passion for the sake of personal victory. It is a co-operative enterprise, conducted for the sake of attaining the greatest possible measurement of general agreement."

Democracy will only help us attain

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- Patrick Watson and Benjamin Barber

a higher measure of human dignity only when it smells good. Unfortunately, it stinks when motions are passed in an acrimonious atmosphere.

However, democracy has its own ironic way of working things out. While it was mathematics that had denied the right of the past President to speak, it was also mathematics that had prevented the motion from being passed. There were enough neutral members at the meeting to deny it the required majority.

This is not to say that the neutral members had voted against the amendment because they did not believe in giving people the right to

be heard. More likely, I think they were against the second part of the amendment, which would have made it mandatory for the SMA to conduct a postal referendum of all members if it is not satisfied with the explanation given by a doctor.

Personally I found the second part unacceptable because it would turn a disciplinary matter into a political action. If the SMA was not satisfied with the explanation, then the matter should go to the SMC where evidence could be laid out and serious deliberations could take place.

How could it be possible for a general body of members to consider a disciplinary case when evidence would definitely be presented in a biased and emotive manner? Where would be the cross-examination that would clarify the case? Furthermore, it is likely that the person facing disciplinary action would be campaigning vigorously while it would look ridiculous for the SMA to do so. In such a political action, only friends of the accused and those with vested interests would bother to vote. The outcome would not be a question of

merit but of political activism and clout. It would also be a meaningless exercise, as it would not legally prevent the case from going up to the SMC anyway.

Come to think of it, the so-called "tyranny of the majority" in a democratic voting process may not be due to the weight of the majority. It could really be the result of an apathetic silent majority leaving a vocal and active minority to direct the show.

Perhaps we need to consider improving the voting process in the SMA. ■

Editor's note: Dr Wong Wee Nam obtained his MBBS from the University of Singapore in 1972 and his LLB (Hons) from the University of London in 1979.