

*Amendment to Standing Orders*

as a result of the attitude of hon. gentlemen in regard to this matter. The hon. member for Westmorland (Mr. Emmerson) referred to the unconstitutionality of this resolution.

This is not the first time that questions of constitutionality regarding procedural amendments have been raised. The *Hansard* report continues as follows:

I venture to say that the Minister of Justice will not assert that the Government had any right to submit this resolution in the form it is submitted. What was the position? There being no express rule of this House providing for a method of amending the rules of the House, you proceeded to rule I and found that the custom and usage in England before 1867 governed, and in 1867 there never had been a rule amended except by referring it to a special committee of the House of which Mr. Speaker was a member. Therefore, these hon. gentlemen broke the rules in trying to impose this tyrannous Tory proposition upon the people of this country and upon this House. If any municipal body proceeded to pass a by-law as the Government are passing this resolution, that by-law would be declared illegal and invalid by every court in the country.

The next man who spoke was the Right Hon. Arthur Meighen, the man who, according to my reading, was the real architect of the closure rule. The *Hansard* report continues in this vein:

Mr. Meighen: Would the by-law be also illegal and invalid if it were put through in the way the hon. member wants the resolution put through, by a committee of the House and then passed by the House?

Mr. MacDonald: Oh, not at all; it would depend on the statute and usage governing the municipality. My hon. friend is at his old trick in making a suggestion of that kind but it will not do. My proposition was that if the proper method to amend the rules of the House was to proceed under the usage of the Imperial Parliament as before 1867, the Government are not proceeding along these lines.

You see, there is the nub of the whole issue stated on April 23, 1913, in the debate on the resolution introduced by the prime minister of the day to put the closure rule into the Standing Orders of the House. The fact of the matter is that this House, in its Standing orders, has never had any rule covering the Standing Orders because, until very recently, with this one exception, it was never considered that it would be necessary to have in the Standing Orders provision for an amendment to the constitutional practice of this House. This is the whole point of my motion. If we are to have a government which adopts the attitude that it can bring any kind of motion at any time it wants in order to amend the rules of this House, then there must be written into the rules some

kind of protection for the minority of the members of this House. I would much prefer that the rule of gentlemen prevail, a rule sometimes referred to as the rule of the ancient usage and customs of Parliament, the long standing effect of which is that it is unthinkable for the rules of this House to be amended except after discussion and consideration by a committee of which Mr. Speaker is the chairman. The fact he is Chairman emphasizes the fact that the committee referred to is a committee of Parliament and not a committee which in any way is a tool of the government. That, Mr. Speaker, is the issue; that is the point of my motion.

If I could get some kind of assurance from the government that it realizes this was not a proper and orderly method of amending the rules, that it would not happen again, that it was prepared to revert to the normal usage and practice of Parliament and that it would not infringe on the rights of the House, then I would be overjoyed to withdraw my motion from the Order Paper. But unless and until we are given some kind of understanding that the rules of the House are not pawns of the government, I intend to press for something along the lines I have suggested to be written into the Standing Orders. Whether it should be three quarters of the members to constitute a majority is a question that is open to discussion and debate. Certainly, we should not amend the rules of the House at the whim of the government and its supporters in the House of Commons. This, to me is the issue, the fundamental issue.

I should like to point, in closing my remarks, to just one other aspect of our rules. When we talk about the rules and usages of Parliament, let us remind ourselves that while we voluntarily agreed to some restrictions in our rules, up until very recently in the history of this Parliament one dissenting member could prevent any alteration of the Standing Orders of the House. In other words, it took unanimous consent to suspend the rules. If that does not underline the basic principles that I am trying to get at in this resolution, I do not know what can do it better. The fact that one member could say, "nay", after which Mr. Speaker said, "This will not be done at this time", is an indication of the long practice which has existed of protecting the right of minorities in this institution to which we belong and which is, in the last analysis, the keeper of the freedoms of the people of Canada.