second request, which is to review whether the current use of closure is in the scope and spirit with which Standing Order 57 was originally drafted.

Our business as parliamentarians, our trade if you like, is the drafting of legislation. No one knows more than the members of the House, like yourself, how important it is that the spirit of the law be given supremacy over its technical wording.

When the House adopted the closure procedure back in 1913 it did so in extreme and unusual circumstances. With rare exceptions, from 1913 to the present, closure was used only after prolonged debate and after the House had been given the opportunity to thoroughly review the issue before the House. The closure procedure was adopted as a safeguard for those rare occasions when negotiations had broken down between the parties. Today it appears to be used instead of negotiations.

In the past five sitting months the government has given notice of closure on 11 occasions. It has done so on highly controversial bills, like the bill before us. It has done so on routine bills, like C-20, the Excise Tax Act. And it has actually threatened closure on bills that had all-party support. I refer to Bill C-18, the multiculturalism bill.

I submit that no longer is closure being used to protect the government from complete legislative paralysis at all. Surely, the government's agenda is not paralysed in this House at this time or it would not have moved—I agree with our consent—to have the House take an additional nine weeks off. It might even have agreed to the suggestion of the New Democratic Party and, I believe, the Liberal Party that the House reconvene early last January. Obviously, the House is not experiencing a state of parliamentary or legislative paralysis.

I ask you to consider these comments and return to us with your comments on the appropriateness of the current use of closure in this House as it is being practised by this government.

I want to move on to my third request, which is slightly more complex. Indeed there may be another authority before which this argument should be presented. It concerns the constitutionality of Standing Order 57, especially its consistency with Section 18 of the Constitution Act, 1867. This section provides as follows:

> The privileges, immunities, and powers to be held, enjoyed and exercised by the Senate and by the House of Commons, and by the Members thereof respectively, shall be such as are from time to time defined by Act of the Parliament of Canada, but so that any Act of the Parliament of Canada defining such privileges, immunities, and powers shall not confer any privileges, immunities, or powers exceeding those at the passing of such Act held, enjoyed and exercised by the Commons House of Parliament of the United Kingdom of Great Britain and Ireland, and by the Members thereof.

In that particular section of the Constitution Act, 1867, I believe lies a fundamental difficulty which we must address now, before we continue.

When this section was drafted, almost 125 years ago, closure did not exist, in either Canada or the United Kingdom. Surely, unrestricted debate in the House must be viewed as one of the privileges enjoyed by members of the Canadian House until 1913. Parliamentary privilege embraces, among other things, the freedom of speech for parliamentarians in connection with our parliamentary duties. It is designed to prevent members from being obstructed, molested or intimidated by the discharge of our duties. The rights of members of Parliament to debate matters is fundamental to our system of government and any restrictions or limitations that are placed on these, such as the use of closure, would seem to be breach of privilege.

In that context, closure must be seen to be an extension of the powers of the House itself to adopt motions which impede the privileges of its members. The adoption of closure, I would argue, amended both the privileges of members and the powers of the House of Commons. Yet Section 18 of the Constitution requires that changes to privileges and powers be made only by statute. I repeat, Mr. Speaker, "only by statute". Closure in Canada was introduced by means of amendments to Standing Orders. No legislative changes have ever been made.

As a general rule, the House governs itself by modifications to Standing Orders rather than by enacting legislation. This may be acceptable in the absence of any requirement to the contrary, but Section 18 of our Constitution clearly directs the House to use legislation in such cases.