

A motion to refer a bill, resolution or any question to a Committee of the Whole, or any Standing or Special Committee, shall preclude all amendment of the main question.

In each case there was an attempt to amend the main question. Those applications failed on that ground. I want to impress upon Your Honour that the thrust of my argument does not deal with the amendment to the legislation. It is not founded on the arguments that were presented previously. It is founded on a different principle. That principle is provided under Standing Order 51 which reads as follows:

Whenever Mr. Speaker is of the opinion that a motion offered to the House is contrary to the rules and privileges of Parliament, he shall apprise the House thereof immediately, before putting the question thereon, and quote the Standing Order or authority applicable to the case.

The word I want to emphasize in this Standing Order is the word "privileges". I am not arguing that Bill C-51 was introduced contrary to the rules. It is clearly within the Standing Orders. What I argue is that it violates the essential and ancient privileges of this House and the ancient privileges of British parliamentary tradition.

Those privileges are set forth succinctly over and over again in rulings that have been made in other parliaments and in this parliament saying members should not be placed in the position of having to vote aye on a motion when they would wish to vote nay. That may sound like an inconsistency, but in a sense a motion can betray the wishes of an hon. member to his constituents. In other words, if an hon. member's vote can be misrepresented to his constituency, it is an ancient tradition of the House that the member of parliament should be given an opportunity to register his vote clearly in terms of the issue in question.

● (2010)

As authority for that proposition I would like to refer Your Honour to the decision rendered in the British House of Commons on November 13, 1912. I will refer to it again in the course of my argument in terms of a ruling made by a previous Speaker of this House during the flag debate. This is what Mr. Speaker of the British House said on November 13, 1912, with regard to a similar point of order:

—the rule of course is if any hon. member feels embarrassed on voting on a resolution that the Chair shall revise the resolution in order that the member may, if he wishes to vote "Aye" on the one part and "No" on the other not be embarrassed by having to vote "Aye" or "No" on the whole of it—

In essence, that is the problem that all members of the House face with regard to Bill C-51.

Now I would like to go back to Bill C-51 because there has to be some history given to understand why so many members of the House feel so strongly about being placed in the invidious position of having their vote on that bill misinterpreted.

The history of this bill is that on the wiretapping section, a minority parliament, in a very abrasive debate, finally resolved itself, came to a position and passed the wiretap legislation, which was at that time a very high profile matter in the minds of the public. Subsequent to that we had the question of gun control. I do not think there is any member of the House who

Criminal Code

cannot say he has had literally hundreds and hundreds of letters on the subject of gun control. It is one of the major issues in the country, and it is something that we cannot ignore in this place in terms of the votes of members on such a piece of legislation.

The problem is that when this bill comes to second reading and members of parliament are asked how they voted on the gun control bill, they are in the incredible position of having to say, "Well, there was wiretapping; there were penitentiary provisions; there was gun control, and the provisions on dangerous offenders". How do you explain that, by virtue of that long standing British tradition that a member should not be required to vote aye when he wishes to vote nay, and be in the invidious position of not being able to take a clear stand on a public issue that is so distinct? I am not suggesting that we sever every piece of legislation. What I am saying is that Bill C-51 is like putting old age pensions and the Mackenzie Valley pipeline into the same bill and asking members of parliament to vote on it.

Some hon. Members: Hear, hear!

Mr. Leggett: That is clearly wrong in terms of British parliamentary tradition. It is even wrong in terms of the American parliamentary tradition to which we are not as bound. But let us look at the American experience.

If we were to discuss this with an American senator, I suggest it would be inconceivable for him to have before him two such provisions such as wiretapping and gun control and to be told that he cannot vote separately on those items on second reading of the bill or on the principle of the bill, because the essential principles behind wiretapping and gun control are completely different and completely unrelated, yet members of parliament are placed in the invidious position of having to make one decision on both these matters. We are now faced with having to make a Hobson's choice. Some of us may agree with both provisions, some with one or the other, but we are placed in the position of having Hobson's choice in terms of the public perception of where their members of parliament stand.

The public is entitled, according to the British parliamentary tradition, to know where their member stands by virtue of the way he votes in the House, and he cannot do that on Bill C-51 because the government has, very shrewdly, joined these very inconsistent provisions, particularly because of the high profile these two subjects have in the minds of the public.

Now I would like to refer Your Honour to *Hansard* of June 15, 1964. That was the time of the flag debate in the House. A motion was presented by the government under government orders. I will not read the whole motion, but in essence it said that there shall be a new flag for Canada. That flag is the one we now have. It also said there shall be a second flag for Canada, a red ensign, which will be used on certain other occasions. There was a great dispute in the House because there was a variety of opinions about the flag.

It was a very emotional issue. Some members wanted only the red ensign, some wanted only the flag we have now, and