

THE SENATE

Tuesday, July 1, 1952

The Senate met at 8 p.m., the Speaker in the Chair.

Prayers and routine proceedings.

**CONSTITUTIONAL AMENDMENTS—
CONSENT OF PROVINCES**

QUESTION OF PRIVILEGE

Hon. Arthur Marcotte: Honourable senators, I am rising on a question of privilege, and one that is rather curious in the sense that it is being made at the request of the Prime Minister. On Saturday last I received a letter from the Prime Minister, part of which was written in French and part in English. For the convenience of honourable senators I have had the French part of the letter translated.

The letter commences:

My dear Senator:

My attention has just been called to the fact that the other day in the Senate you, no doubt unwittingly, were guilty of unfairness towards me. You said that the fact that our Constitution was being amended under the power conferred by the amendment to the Constitution enacted in 1949 constituted the violation of a promise made by me to the provincial premiers during the Federal-provincial Conference of January, 1950.

This is not in accord with the facts.

Now, what did I say on that occasion? I have in my hand a copy of *Hansard* of June 17, 1952. I quoted there a statement made by my friend the senator from Ottawa (Hon. Mr. Lambert), for whom, as you know, I have the greatest respect. The statement that I quoted was as follows:

It was strongly represented at that time that the provinces should have been consulted before such action was taken, and this representation was made so forcibly that the Prime Minister gave definite undertakings that the application of the B.N.A. Act (1949) No. 2 would be held in abeyance pending the production by the provinces of a better method of amending the constitution. If honourable senators are interested in reading the statements, I would refer them to pages 46, 49 and 69 of the report of the proceedings of the conference between the provinces and the dominion of January last.

This statement was, as I say, made by the senator from Ottawa; it was not my statement. I did not change one word or comma of it; I quoted it just as it was put by my honourable friend. He is an experienced public man, a shrewd newspaperman, who has been present at dominion-provincial conferences, and so on, and I took his statement to be correct. Indeed, as I said on June 17, I even went to the trouble of corroborating the facts. That statement was made by my honourable friend on the 21st of February,

1951, and for fifteen months it stood unassailed, uncontradicted, and was taken to be right. And in the session of 1951, when we were discussing an amendment to the British North America Act, just two weeks after my honourable friend had made his statement, I commented upon it.

And now in his letter to me the Prime Minister states there were qualifications to the promise that he made. Because the letter is long, I will not read the whole of it, but I ask permission of the house to place on *Hansard* the remainder of the letter, continuing from where I left off.

The remainder of the letter is as follows:

The premiers had said that they regretted that we had caused this amendment of 1949 to be adopted before the conference, and I said that if it might be helpful towards securing an agreement on a general procedure for all future amendments we would not object to having this procedure apply to what was comprised in the 1949 amendment.

As our discussion was carried on in English, I prefer to give you the precise citations in that language. You will find at page 46 of the report of the conference in English, the following:

"Some concern has been expressed as to whether the language used in the 1949 No. 2 Act could not be subject to interpretations which might extend it to things that would not be purely federal; and that if we are going to examine our whole problem it should be examined in such a way as to dispose of that concern.

I do not raise any objection to that. If we are examining the whole field I do not think we would wish to say, 'Well, now, there has been something enacted which is an obstacle to doing now what would contribute to the creation of a feeling of confidence on the part of the Canadian people that we all mean to do the right thing by each other.'

The next day Mr. Frost stated (page 50):

"I may say that yesterday my colleagues and I were very much interested in certain proposals which were advanced by other governments. I felt that the Prime Minister himself contributed immeasurably to the solution of the problem with which we are faced in the statement that he made yesterday relevant to the Act of 1949, and his willingness and the willingness of his government that the subject matter of that Act should be considered here and that it should be subject to the machinery, if I may put it that way, which will come out of the conference."

Other premiers had also alluded to the same matter, among others, Mr. Duplessis, who had asked for more precise clarification. This is what you will find in the report as being what Mr. Duplessis said (page 54):

"Mr. Prime Minister, before the meeting adjourned last evening I understood that this morning you were to tell us exactly the stand of the federal authorities in connection with the recent constitutional amendment of 1949, No. 2. I may have been under a wrong impression; but I think it would be important to know exactly the stand of the government in that regard. Yesterday afternoon, if I understood you correctly, you stated that the federal authorities would be willing to consider examining the whole constitution, including the new amendment."

I then answered (pages 54 and 55), as follows:

"I will not say any decision was arrived at; but I understand the suggestion offered by Mr. Macdonald, for instance, would cover the whole field and would render subsection (1) of 91, enacted by