

1935 was divided, between the date of Royal Assent and the date of coming into operation, by a separate Act—

That is the only precedent and the act involved was divided by the government.

I do not see what the honourable senator wants. Would he have the committee give a separate number to each bill? Would he have an introduction in each bill, as well as provisions for Royal Assent and proclamation? He is asking the committee to do something that is very technical, and not within the competence of the committee.

In any event, it seems to me that, if Senator Graham has in mind something that would require the Senate or the committee to make a decision on each part of the bill, that could be done in committee, without any instruction. The committee can decide whether it wants Part I to come into force, or whether it wants to strike out Part I or Part II, or whether it wants to amend Part I and Part II, or whether it wants to recommend that Part I be adopted and that Part II not be adopted. This can be done by the committee. It seems to me that the only problem Senator Graham faces is the suggestion of this very technical process of splitting the bill, which, I think, comes too late and is unprecedented.

**Senator MacEachen:** Honourable senators, I believe that Senator Flynn has identified the purpose of the motion put forward by Senator Graham; namely, to divide the bill into two bills. That is what is intended. Senator Flynn has suggested that it would be within the power of the committee to defeat, for example, Part I of the bill. In a sense, that suggestion gives me the encouragement to add that if the committee has the power to extinguish and defeat totally Part I of the bill, then it is not asking a great deal to have the committee deal with the two parts of the bill separately by having them split into two separate bills, which would proceed from the committee independently, one from the other. In that process the committee could easily sever the Atlantic Opportunities Agency and put it in one bill and put the Enterprise Cape Breton provisions in another bill. Whatever consequential amendments in Part III are required in the two bills can be related to the appropriate bills I have described. One of the criteria put forward by the authorities, particularly Erskine May, is that the bill be such that it can easily be severable. I have never seen a bill that is more capable of being severed into two parts than this one.

I want to follow up on the procedural argument made by Senator Flynn, but before I do so I would make the following point: that the purpose of this motion is to provide an opportunity within the committee to deal with two separate subjects, each on its own merits. It may be possible for both the committee and the Senate to deal more quickly, for example, with the Atlantic Canada Opportunities Agency bill than with the Enterprise Cape Breton bill, which has, to some of us, profound difficulties. It ought not to be viewed on its face as an obstructive measure. It can be regarded as a facilitative measure, but that is really not on the procedural point and could be debated under the motion itself.

[Senator Flynn.]

Senator Flynn has said that there is no precedent in the Canadian Senate for dividing bills, and I accept that point readily. I have not been able to find a precedent where the Canadian Senate has given an instruction to a committee to divide a bill. He has pointed out a case in the British House of Lords which I have examined. In that case a motion was made by the Marquis of Salisbury, a prominent Conservative no doubt, to divide a bill. Whoever acted as Speaker in that chamber put the motion. There were no procedural objections. The motion was debated extensively and the lords decided not to authorize or instruct the committee to divide the bill. There is no question that the motion itself was in order, because it was put and debated and divided upon. Therefore, the motion was in order. This motion, if it is found to be in order, can be accepted, or defeated, as was the case in the House of Lords.

● (1700)

I say to Senator Flynn that it is without precedent in the Canadian Senate. Some things are happening presently in the House of Commons that are without precedent. The Leader of the Government, himself, in the House of Commons said that the motion on abortion was breaking new ground; but I would put that to one side. If we look at our own standing rules of the Senate, the first rule states:

In all cases not provided for in these rules, the customs, usages, forms and proceedings of either House of the Parliament of Canada shall, so far as is practicable, be followed in the Senate or in any committee thereof.

Therefore, the practices and usages of the House of Commons are quite relevant, applicable and constitute precedents for the Senate of Canada.

Before going into precedents from the House of Commons, may I just refer to a number of authorities who unanimously hold that after second reading an instruction may be given to a committee allowing it to divide a bill. For example, *Beauchene's* Fifth Edition, at page 230, states:

An Instruction is required to enable a committee to divide a bill into two or more bills . . .

Further, *Bourinot*, Fourth Edition, at page 525, states:

A committee may, in conformity with instructions, consolidate two bills into one or divide one bill into two or more . . .

**Senator Flynn:** In the House of Commons.

**Senator MacEachen:** Senator Flynn interjects and says, "In the House of Commons." Precisely: "In the House of Commons." Rule 1 of the Senate tells us that the practices, usages and precedents of the House of Commons can guide the Senate. Rule 1 of the Senate states that, where there is no provision in our rules or practices, the rules and practices of the House of Commons are precedents that constitute guidance to us.

**Senator Roblin:** Since when?

**Senator MacEachen:** That has always been the case in the Senate. Senator Roblin said, "Since when?" I cannot answer