

That it be an instruction of this House to the Standing Senate Committee on National Finance that it divide Bill C-103, An Act to increase opportunity for economic development in Atlantic Canada, to establish the Atlantic Canada Opportunities Agency and Enterprise Cape Breton Corporation and to make consequential and related amendments to other Acts, into two Bills, in order that it may deal separately with Part I, entitled the Atlantic Canada Opportunities Agency, and Part II, entitled Enterprise Cape Breton Corporation.

The Hon. the Acting Speaker: Is it your pleasure, honourable senators, to adopt the motion?

Hon. Jacques Flynn: Honourable senators, I rise on a point of order. It may be that I do not understand exactly what Senator Graham has in mind. However, when his motion says that he would like the committee to be instructed to divide the proposed legislation into two bills, I would ask whether it is for the purpose of the study by the committee, in order to have the committee report separately on Part I and Part II of the bill, or does he have in mind the technical division of one bill into two bills? What is the exact operation the honourable senator has in mind? Perhaps he could describe the process to us.

Senator Graham: Honourable senators, if I were allowed to speak on my motion, I would explain what I have in mind.

Senator Flynn: I am willing to allow the honourable senator to explain that point. However, I must say that if what he wants done is a technical division of the bill by the committee, then I will reserve my right to rise on a point of order.

Hon. Allan J. MacEachen (Leader of the Opposition): Honourable senators, I think that, if the motion is put and the debate commences, which will happen if Senator Graham speaks, it will then be too late to raise the point of order. I believe that if the motion is in order then it must be put. If there is a point of order raised against the regularity of the motion, then we ought to debate that and settle it now.

Senator Flynn: Honourable senators, Senator MacEachen is again playing a game, which I have seen him do before. Now he says it is too late to raise a point of order, that the question must be put before anyone rises on a point of order. In fact, the honourable senator was just rising to speak. In fact, he would not have been willing to speak at all had the motion been carried. Therefore, I raised the point of order. It depends on the meaning Senator Graham puts on this motion, and I cannot see why I am too late to be doing that. I do not know when otherwise I could have done it.

Senator MacEachen: I believe that Senator Flynn has misunderstood my comment. I agree totally that Senator Flynn has the right to raise a point of order as to the regularity of the motion and that we could have a discussion on that matter.

However, I think I am on solid ground in saying that if the motion is put and debate is commenced on the motion, then it is inappropriate to raise a point of order at that stage, because the motion is in the possession of the house; it has been moved and the debate has commenced.

Senator Flynn: Do you mean it is too late?

Senator Doody: No, not yet.

Senator MacEachen: No. If the honourable senator wishes to raise a point of order on the regularity of the motion, I think it ought to be dealt with now. In fact, I would say that the honourable senator has the full right to deal with a point of order at this point.

Senator Flynn: Honourable senators, as I read the motion, it indicates to me that Senator Graham wants the committee to prepare two bills instead of the one that has been referred to the committee. However, if Senator Graham tells me that that is not what he has in mind, and he is willing to amend his motion to say that what he wants the committee to do is study the bill as it was referred to it and report separately on the two parts—in other words, report separately on each part of the bill—then, of course, the committee can do that, even without any instruction from the Senate.

However, if what Senator Graham has in mind is a splitting process, and he is saying to us: "I want you to make two bills out of the bill that has been referred to the committee," then I think that is a procedure that is totally irregular. In any event, it seems to me that it is too late, because the bill as a whole has been referred to committee. To ask the committee to do what this motion suggests is inappropriate, because the Senate has already adopted the bill at second reading stage. This motion should have been put before the motion for second reading was put.

● (1650)

If it is the purpose of Senator Graham to have the bill split in two, I can tell him that this procedure has never been followed, to my recollection. Such a procedure has been followed in the House of Commons, where the Speaker has been asked to rule that it is irregular for the government to include in two bills two matters that should be considered separately. In that situation the request to split is usually made right at the beginning, not after the bill has received second reading. I believe it says in *Beauchesne's* that this procedure is not acceptable, because it is something that must be decided by the Senate, not by a committee.

I have here a precedent found in Erskine May's *Parliamentary Practice*, Twentieth Edition, at page 502. It is found in a note at the bottom of the page. It refers to an incident that occurred a long time ago. However, as I have said, we have not been able to find any precedent or any recent occasion that would resemble what this motion is instructing the committee to do. The note refers to an incident in 1852, and we do not know whether there has been any similar incident since then. It reads:

Only one attempt has been made to divide a bill brought from the Commons... and this was defeated. But the instruction was objected to on its merits as well as on its unprecedented nature and the technical difficulties it would create, so that the propriety of dividing a Commons bill has not been decided. The Government of India Act