

*Criminal Code*

there were some members who thought the motion was all right. It left members in the invidious position of having to say either yea and nay to this motion and finding it impossible to explain the position they had taken in the House to their constituents.

At that time the hon. member for Winnipeg North Centre (Mr. Knowles) raised a point of order, and I will paraphrase some of the argument he put forward. He also drew attention to Standing Order 51. I will not repeat it, but it does provide that when the Speaker is of the opinion that a motion offered is contrary to the privileges of parliament, he can take the appropriate action.

Again I say that the form of this bill leaves us in an impossible position and violates the ancient rights of parliament.

Perhaps I could deal briefly with two authorities. One is May's Parliamentary Practice, thirteenth edition, and I will quote from page 270. The reason I quote this particular authority is in case Your Honour may believe that a bill is something entirely different from a motion. The argument made in May covers when we are dealing with a separate subject. May makes it very clear. He states:

Every matter is determined in both Houses upon questions put by the Speaker upon a motion made by a member, and resolved in the affirmative or negative, as the case may be.

We are dealing with a motion in exactly the same way as we were dealing with a motion during the Canadian flag debate.

I would like to refer also to page 297 of Bourinot's fourth edition where the following is stated:

"Whenever the speaker is of opinion that a motion offered to the House is contrary to the rules and privileges of parliament—

Again I emphasize the phrase "privileges of parliament"

—he shall apprise the House thereof immediately, before putting the question thereon, and quote the rule or authority applicable to the case".

What I am asking Your Honour to consider seriously is that, before the House deals with this bill in second reading debate, you should make a ruling on whether the bill in its present form offends the ancient privileges of parliament, so that members can have an opportunity not to confuse their aye or nay on such a fundamentally important question as either gun control or wiretapping.

In the precedent on which I rely quite heavily, the precedent of the flag debate, a great deal of argument went back and forth concerning the complication of the motion, but when it was all over, Mr. Speaker Macnaughton, having considered the arguments pro and con, came to a conclusion which, I submit to Your Honour, is the fair and appropriate conclusion to reach in these circumstances. He said this, and I quote from page 4306:

Taking into consideration the references and quotations just cited, and more especially the view expressed by the Speaker of the British house on November 13, 1912, where he said:

—the rule of course is if any honourable 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,—

[Mr. Leggatt.]

—I must come to the conclusion that the motion before the house contains two propositions, and since strong objections have been made to the effect that these two propositions should not be considered together, it is my duty to divide them as follows:

● (2020)

And he did, and he called for separate votes on the question of the new flag or the Red Ensign.

I submit that we are again dealing with exactly the same situation in this House. Part of the reason for the ruling in 1964 on the flag debate dealt with the history of the debate, how it became emotionally charged and how people out in the country took stands pro and con. Therefore members of parliament were left trying to reflect in their own minds, represent their constituents and have a clear vote on the subject so that their constituents would not be confused as to where they stood in this place.

I submit that combining gun control and wiretapping in the same bill leaves us in exactly the same position as where we were in 1964. I ask hon. members to look at their mail. I ask them to consider how their constituents stand on these two very important and sometimes emotional issues. I question whether it is fair under British parliamentary practice that hon. members in this House should be asked to vote on such a combined question, leaving them in the ambiguous position of trying desperately to explain whether they were for or against. It is inconsistent to place these two things in the same bill, particularly in light of the history of the bill.

Mr. Speaker Macnaughton went on to say the following:

Therefore, unless there should be an appeal to the house from my decision, and my decision is not sustained, it is my intention to put the question on the first part of the motion as divided.

I suggest that the question of gun control should be severed from the bill and that Your Honour has full power under the rules to rule that on second reading of Bill C-51 the Chair can call the question on part one of the motion of the Minister of Justice (Mr. Basford), gun control, and then call a separate question on the remainder of the bill.

There is authority in the rules. Precedents have been set in English parliamentary practice, but I think it most important that common sense should prevail in these circumstances. The plain history of this legislation and the issues which have been debated across the country are such that common sense should also prevail in this House, and members of parliament should be given an opportunity to vote separately on these vital and important questions.

**Mr. Speaker:** Before going further, I should indicate to the hon. member and to others who want to participate in the discussion that the Chair would not have great difficulty, assuming that the cases were identical or very close to it, or if we were dealing with a resolution like the flag resolution which contained within its terms mutually contradictory or, if not contradictory, at least duplicate statements, so that the Chair could be persuaded that a member was put into the invidious position of having to vote for a resolution which contained two parts, wanting to vote in favour of one and against the other.