

It would be preferable to reach a solution that respects the role of the Senate and the role of senators in presenting the report and avoid the outcome which has the House of Commons determining for the Senate on a matter which ought to be a joint decision. That is my conclusion.

Hon. John Lynch-Staunton (Leader of the Opposition): Where do we go from here, honourable senators? Senator MacEachen has raised a point of order. There should be a ruling on it. I am interested in his arguments and those supported by Senator Gauthier. Have the House of Commons rules prevailed in the determination of how joint committees operate, rather than Senate rules? Is that correct or not?

• (1410)

Senator MacEachen: If that is a question to me, I am not sure that I am capable of giving an answer because I have not met the problem in the past. I have been looking at one or two references. For example, the Twenty-first Edition of Erskine May *on Parliamentary Practices*, page 665, reads as follows:

For a joint committee to act on an authority which had been delegated to it by one House only would be ultra vires.

In this case, the joint committee is defunct and all the members have ceased to be members of the joint committee. The joint committee has disappeared. Certainly it would appear that Erskine May would support the contention that both houses ought to decide on a matter of this kind.

We know that the costs of the joint committees, including the printing of reports, are shared between the two houses. However, there is a more fundamental principle than any which I could invoke, and that is that the Senate is a chamber of Parliament. It is equal. Some people call it the Upper House. However, it certainly has an equal role in legislative functioning. No bill can be passed without the concurrence of the Senate. Why should it be possible to have the way in which the work of joint committees is produced determined by the House of Commons and not through a joint exercise?

I, personally, believe that the presentation of the report in three volumes makes a lot of sense to the reader, and it gives the reader an opportunity to deal with these reports in an orderly way.

Hon. Lowell Murray: Honourable senators, Senator Corbin will recall that some years ago there was a dispute as to which rules apply to a joint committee. That dispute took place in the Special Joint Committee on Official Languages, of which he and I were the co-chairmen.

The question was with regard to a rule of the House of Commons which stipulated that a quorum necessarily consisted of members of both government and opposition, if I recall correctly. The members on the committee from the House of Commons insisted that that rule should apply to the joint committee. We on the Senate side denied its applicability. The solution which was eventually arrived at was that the joint committee had to pass its own ground rules governing such matters as quorums in the joint committee.

[Senator MacEachen]

I agree with everything Senator MacEachen has said concerning the problem posed by Speaker Parent's ruling, in view of the fact that we are speaking of a special joint committee. The fact of the matter is, and I think it is worth noting, that the Senate pays, I believe, one-third of the budget of a committee such as that. That fact should be taken into consideration.

I should like to bootleg one opinion into this discussion: Whatever the practice may be in the House of Commons with regard to publishing dissenting reports — and we have no rule here permitting that — I hope that that practice does not creep into our Senate customs any more than it has already done.

On any committee of which I have been a member, and certainly any committee of which I have been chairman, we have tried to accommodate the views of the minority of the committee by stating in the body of the report, with respect to this or that recommendation, that it was supported by a majority, or not supported by Liberal senators or Conservative senators, as the case may have been.

Generally speaking, we have not encouraged or permitted the publication of dissenting "stand-alone" reports. I think it is sufficient to make the accommodation in the body of the report, with the majority opinion carrying. If there are those in the Senate who do not agree with the committee report, they have an opportunity to say so at length when the report is debated.

Senator MacEachen: Honourable senators, if I may make one further comment, stimulated by the remarks of Senator Murray in which he asked the very valid question as to which rules apply, there is a standing order in the House of Commons which provides for dissenting opinions — not minority reports, but dissenting opinions. As I recollect, the standing order provides that the dissenting opinions must be relevant, and brief. Each of us would decide for himself whether the dissenting opinion in this case is brief in relation to the size of the overall report, and whether its contents meet the test of relevancy.

It seems to me that if it is now open to revisit the decisions taken by the co-chairs in authorizing the method of printing, then it is equally valid for someone in either house to raise the question of whether the other standing order has been followed; namely, that order concerning relevancy and brevity, and whether, if there is to be a reprinting, an adjudication ought to be sought from a higher authority as to whether this particular dissenting opinion is in conformity with the standing order calling for brevity and relevancy. It would require a great deal of evidence, which is not presently available to anyone, to conclude that this dissenting opinion is brief. It would require, perhaps, not as much evidence, but some argument to prove that every aspect of it is relevant. In the circumstances, the co-chairs decided to accept this dissenting opinion with their thoughts unexpressed.

• (1420)

If the work of the joint committee is open to review and to the decision that the volumes ought to be reunited, then it is equally open to us to argue that these dissenting opinions ought to be tested against the rules presently in existence.