

Message from the Senate

waiving its traditional privilege, and a single Bill was eventually given Royal Assent. I underline that that was the act of this House in waiving its tradition of privilege and accepting the invitation of the Senate to put two Bills together.

If it is admitted that the Senate can consolidate two Bills, why then can it not divide one Bill into two or more legislative measures? The answer is at least in part in the message. In the 1941 case just alluded to the Senate specifically sought the concurrence of the House for its action. Apparently it was the disposition of this place to accept it. In the message received last Friday relating to Bill C-103, the Senate does not seek the Commons' concurrence in the division of the Bill, it simply informs this House that it has done so, and returns half of a Bill.

● (1520)

Some Hon. Members: Oh, oh.

Mr. Speaker: I ask Hon. Members to restrain their comments until some other time. Whatever Hon. Members may feel, I do not think that this is a partisan matter. I am trying to make it very clear that it is a procedural matter, and a matter of some importance to the workings of this place and its very important relationship with the honourable the Senate, which is very much part of the Parliament of Canada.

The Speaker of the House of Commons by tradition does not rule on constitutional matters. It is not for me to decide whether the Senate has the constitutional power to do what it has done with Bill C-103. There is not any doubt that the Senate can amend a Bill, or it can reject it in whole or in part. There is some considerable doubt, at least in my mind, that the Senate can rewrite or redraft Bills originating in the Commons, potentially so as to change their principle as adopted by the House without again first seeking the agreement of the House. That I view as a matter of privilege and not a matter related to the Constitution.

In the case of Bill C-103, it is my opinion, and with great respect of course, that the Senate should have respected the propriety of asking the House of Commons to concur in its action of dividing Bill C-103 and in reporting only part of the Bill back as a *fait accompli* has infringed the privileges of this place.

Furthermore, Bill C-103 has attached to it, pursuant to our Standing Orders and Section 54 of the Constitution, a financial recommendation of Her Excellency the Governor General. Again, for those who are watching and who are uninitiated in all the terminology that we use, there is a requisite that in a Bill that is going to call upon the expenditure of funds, a financial recommendation of Her Excellency the Governor General is necessary. So this Bill is in a very real sense a financial Bill. The Senate is somewhat limited in its review of money Bills. Standing Order 87, which is still on the books after many decades, is quite clear and it states:

All aids and supplies granted to the Sovereign by the Parliament of Canada are the sole gift of the House of Commons, and all bills for granting such

aids and supplies ought to begin with the House, as it is the undoubted right of the House to direct, limit, and appoint in all such bills, the ends, purposes, considerations, conditions, limitations and qualifications of such grants, which are not alterable by the Senate.

Certain questions remain to be answered: by splitting the Bill does the Royal Recommendation still apply? Have the financial privileges of the Commons been breached? Will the Crown assent to two Bills when it agreed to the introduction of a single one? As Speaker of the House of Commons, I will not attempt to answer such constitutional questions, but clearly this House has always considered Standing Order 87, which I just read, as setting out the special relationship between the Commons, that is, this House of Commons, and the Sovereign.

I have ruled that the privileges of the House have been infringed. However, and it is important to understand this, I am without the power to enforce them directly. I cannot rule the Message from the Senate out of order for that would leave Bill C-103 in limbo. In other words, it would be nowhere. The cure in this case is for the House to claim its privileges or to forgo them, if it so wishes, by way of message to Their Honours, that is, to the Senate, informing them accordingly.

In conclusion, I wish to state to the House that while Bill C-103 is a Government Bill, the same situation could arise under our reformed rules for a Private Members' Bill. It is in the better interests of this place to request Their Honours in the Senate to first consult with this House before they report to us such unilateral action. As Speaker of the House of Commons of Canada I must uphold the privileges of this place at all times, and I must also advocate them privately, publicly, and with vigour. Having said that, if on an issue of substance, the House wishes to waive those rights, as usual the Speaker will not enter into substantive debate but will follow the House's directives.

I thank all Hon. Members for their valuable contributions in this most unique and interesting case.

The Hon. Minister of State on a point of order.

Mr. Lewis: I wish to thank you on behalf of all Members of the House for the very clear ruling which you have made in reinforcing the privileges of this House *vis-à-vis* the other place. We had intended to immediately call for debate on the message which is presently on the Order Paper to send this matter back to the Senate immediately. I think that we would all benefit from an opportunity to review your ruling in detail and incorporate it into our remarks as we address this as Members of Parliament, no matter what Party we represent, in order that we can make it very clear where the Members of this House stand *vis-à-vis* the other place, the actions which should be taken by the other place, and the actions which we think are constitutional for the House of Commons and the other place to take.

For those reasons, I wish to compliment you on your ruling, and signal to the House that instead of debating the Message to the Senate immediately after your ruling we will ask the