

that, but I presume that has been the situation since the rules of the Senate were adopted.

Senator Roblin: Honoured in the breach, not in the observance.

Senator MacEachen: Honourable senators, I refer to a further useful reference from the authorities, and that is *Erskine May's*, Nineteenth Edition, where, at page 473, it states:

After second reading, an Instruction to the committee on a bill may be moved . . .

Instructions are of two kinds, permissive and mandatory.

Permissive Instructions.—The object of a permissive instruction is to confer on the committee authority to do something which, without the instruction, they would have no power to do, for example, to divide a bill into two bills . . .

I do not intend to go into the limitations which have been cited by Beauchene and Erskine May as to when it is technically possible to divide a bill. I do not think they are relevant, because, if ever a bill were separable into parts, it is this particular bill. However, anyone who wishes to follow that up can do so by looking at these authorities.

Honourable senators, I refer briefly to Canadian precedents. In 1956 in the famous northern pipeline debate a motion was moved empowering the Committee of the Whole to divide a bill, and, obviously, a point of order was raised.

Senator Flynn: I did not say—and I do not think it serves any purpose to say—that it was done in the House of Commons. It is a question of the decision of the Speaker of the other place or of the initiative of the government. I do not deny that this has been done in the House of Commons. I am asking for a precedent in the Senate or at this stage.

Senator MacEachen: I have already acknowledged, honourable senators, that there is no case that I can find in the Canadian Senate where a bill has been divided. I acknowledge that, but then I go on to read to the honourable senators rule 1, which 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.

It states quite clearly that what happens in the House of Commons can be followed in the Senate. It says, “. . . be followed in the Senate.” Rule 1 states that precedents from the House of Commons are totally applicable, totally relevant and of total guidance in this situation.

If I may continue my exposition of the pipeline debate, a motion was moved empowering the Committee of the Whole to divide the bill. Speaker Beaudoin stated:

There is no question that this motion is in order because it is an instruction to the Committee of the Whole that the bill be divided in two.

Senator Flynn: That was before second reading.

Senator MacEachen: We have an earlier example in 1948 when, after the Canadian Wheat Board Act was given second reading, it was moved that there be “an instruction to the Committee of the Whole that they have power to divide Bill 135 into two bills”—and this should please our western colleagues—“in order that one might deal separately with oats and barley.”

Senator Flynn: I never heard of it.

Senator MacEachen: The motion was put. The motion was moved, in fact, by the Right Honourable C. D. Howe. Surprisingly, it was defeated by his own party. It was put by the Speaker and defeated. The only minister that I could find who supported him was that incorruptible Nova Scotian, the Right Honourable J. L. Ilsley. It is clear that we have had instances in the House of Commons where motions have been put to divide a bill and that they are in order. Those precedents are applicable in this body, according to rule 1 of the Senate.

Senator Flynn has said that, even if it is appropriate, it is too late. I disagree with that quite completely, because in our own Senate we have given instructions to committees after they have been well into their work. The cases I have in mind are instances where motions were made with respect to the transportation bills and the drug bill. In these cases an instruction was moved and carried in this house, asking the committees to report by certain dates on bills which they were dealing with and which had been committed to them much earlier. But, in any event, the case is not in doubt at all on that point, because *Erskine May's* makes it quite clear in the case of bills, and I quote from the edition to which I have referred, at page 517:

● (1710)

In the case of bills referred to standing or select committees, an instruction can be moved as soon as the bill has been committed, (c), or subsequently (d).

Senator Graham gave notice of his motion to give an instruction immediately on the day that the bill was given second reading and committed. Under our rules there is a one-day notice required to give an instruction to a committee. So the logic of the case is clear; a senator puts his notice of motion, it comes up for debate and it is dealt with after the bill has been committed to the committee. That is in accordance with logic and our rules. It is in accordance with the citation from *Erskine May's* and is in accordance with the practice adopted by this Senate just a year ago in giving an instruction to two committees long after the Senate had given second reading to the bills.

I think the case is clear cut. We would not have taken this action, honourable senators, unless we had been on totally solid ground.

It is interesting that Senator Flynn himself cited a case emanating in the British House of Lords which is totally in accordance with the motion that has been put forward today by Senator Graham. I am surprised that there is this procedural fuss, because, if this motion were held to be irregular, such a ruling would dismiss the precedents of the Canadian House of Commons, the British House of Lords, rule 1 of the