

*Message from the Senate*

invitation that the Chair gives to this House as to whatever further response the House may wish to take.

On Friday, July 8 last, the Chair informed the House that a message had been received from the other place that it had divided Bill C-103, an Act to increase the 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. The message from the Senate simply informed this House of its decision and reported back without amendment only Part 1 of Bill C-103.

The Hon. Minister of State for the Treasury Board (Mr. Lewis) rose on a point of order objecting to the unprecedented action by the Senate in dividing Bill C-103 and requesting guidance from the Chair as to the acceptability of such a message. The Hon. Member for Cape Breton—The Sydneys (Mr. MacLellan) counter-argued that what the Senate had done was quite logical since Bill C-103 was composed of quite distinct parts and could easily be divided into two parts, each standing as separate and independent legislative proposals.

I point out that the Hon. Member for Cape Breton—The Sydneys also argued strenuously for the substantive issue that is involved. As I said, that is for others to argue and is not for the Chair to comment upon.

The Hon. Member for Churchill (Mr. Murphy), supported vigorously by the Hon. Member for Annapolis Valley—Hants (Mr. Nowlan) and the Hon. Member for Halifax West (Mr. Crosby), objected to the innovative procedure of the Senate on the grounds that the privileges of this House had been violated. The Hon. Member for Churchill claimed that the Senate had no authority to split a Bill originating in the Commons. The Hon. Member for Annapolis Valley—Hants further added that if this precedent were to be allowed, the House of Commons would be at risk in seeing much of its legislation originating in an elected Chamber compromised in principle by the Senate's actions.

*[Translation]*

Before dealing with the essence of the problem, it might be useful to summarize what happened with Bill C-103, the Government Organization Act, Atlantic Canada, 1987.

The House passed Bill C-103 on third reading on May 10, 1988, and sent it to the Senate the same day with a message signed by the Clerk of the House.

*[English]*

Let me say parenthetically that it is unusual to refer to specific proceedings of the other place—again, for those listening, “the other place” is a term used here to mean the Honourable The Senate—in this House. The Chair finds itself obliged to lay that convention aside for clarity's sake in this particular issue.

On June 1, 1988, a motion was moved in the Senate to instruct the Senate Finance Committee to divide Bill C-103. A

procedural debate ensued. Having first reserved his decision, the Speaker of the Senate on June 7, 1988, ruled the motion out of order. In other words, the Speaker of the Senate ruled the motion to split a Bill from the House of Commons as out of order. His reasoning, which is a matter of record, was based on the fact that Bill C-103 is a money Bill and that the Senate, while free to split Bills originating in the Senate, as a general principle should not divide Bills originating in the Commons.

Thereupon the ruling of the Speaker of the Senate was appealed to the whole House, that is, to the whole Senate, and was overturned by a majority vote. The motion to split Bill C-103 was moved, proposed, debated and passed. May I also add parenthetically that this House, the House of Commons of Canada, has seen the wisdom of leaving final procedural decisions to its presiding officer and accordingly has long abolished the appeal procedure relating to Speakers' rulings.

*[Translation]*

Bill C-103 was then studied by the Senate Finance Committee, which split the Bill in two, in accordance with the Senate's instructions. The Committee reported Part I of the Bill to the Senate and the Senate sent this part back to the House last Friday. That is where we are today. The House has only one part of Bill C-103.

*[English]*

I must also underline for the House that this procedural event is totally without precedent. I have been unable to find any instance in our practice in which the Senate divided a Commons Bill, or in which the Commons has divided a Senate Bill. There are several cases in which the Speaker of the House of Commons has ruled certain Bills originating in the Senate out of order because they infringe the financial privileges of the House which are enshrined in the Constitution of Canada. I refer Hon. Members in this case to *Journals* of November 12, 1969, and June 12, 1973, for two such examples.

*[Translation]*

I refer Hon. Members to page 502 of the 20th edition of Erskine May. It concerns a procedural incident in the British Parliament, where there had been an attempt in the House of Lords to split a bill from the House of Commons, but this attempt failed after a motion to split the bill was rejected. This incident is reported but the author carefully refrains from indicating how the Lower House could have reacted if the motion had passed. This incident occurred in 1852 and I could find no similar incidents anywhere since then.

*[English]*

A Canadian precedent does exist for a consolidation of two Commons Bills into a single legislative measure by the Senate. That took place on June 11, 1941, with a message from their Honours, from the Senate, asking for the concurrence of this House. The Commons agreed with the Senate proposal, that is, a proposal to take two Bills from this place and put them into one Bill. The Commons agreed with the Senate proposal