CAPE BRETON DEVELOPMENT CORPORATION

PRESIDENCY—APPOINTMENT TO FILL VACANCY

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, I have a delayed answer in response to a question asked in the Senate on June 2, 1988, by the Honourable Alasdair Graham, regarding Cape Breton Development Corporation—Presidency—Appointment to Fill Vacancy.

(*The answer follows:*)

> At the request of the government, the Board of Directors instituted a lengthy search for qualified candidates and, based on the Board's recommendations, the government is now concluding its selection process. In this regard, the government hopes to complete arrangements for an appointment very shortly.
>
> Until a formal appointment is announced and, with her full concurrence, the Board of Directors has made the necessary arrangements to extend Dr. MacNeil's acting appointment as President and CEO of Devco.

GOVERNMENT ORGANIZATION BILL, ATLANTIC CANADA, 1987

MOTION TO INSTRUCT NATIONAL FINANCE COMMITTEE TO DIVIDE BILL C-103 INTO TWO BILLS—SPEAKER'S RULING NEGATIVED

The Hon. the Speaker: Honourable senators, before we proceed with Orders of the Day, the Chair was asked for a ruling on the motion of Senator Graham last Wednesday. If I may, I will now give the Chair's ruling.

[*Translation*]

On Wednesday, June 1, the Chair was asked to rule on the acceptability of the motion of the Honourable Senator Graham:

> That it be an instruction of this House to the Standing Senate Committee on National Finance that it divide Bill C-103, An Act to increase 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, into two Bills, in order that it may deal separately with Part I, entitled the Atlantic Canada Opportunities Agency, and Part II, entitled Enterprise Cape Breton Corporation.

In the discussion which followed, all Senators agreed that this motion was somewhat unusual to the proceedings of the Senate. It is for this reason that the Chair wanted to delay its ruling which had been promised for last Thursday. I wish to apologize to all honourable senators who may have been inconvenienced by this delay, but the matter is of such importance that more time was required to fully consider the point of order raised by Senator Flynn and the comments made by Senator MacEachen, Senator Stewart and Senator Molgat.

The issue before us is whether it is in order, within the procedures of the Senate, to move a mandatory instruction to a committee that Bill C-103, a bill passed by the House of Commons and sent to the Senate for concurrence, be divided into two separate bills. As Senator Stewart succinctly noted on Wednesday, Senators must ask themselves what reasons could there be for prohibiting the moving of such a motion.

In deciding this question, it is usual to examine the precedents for similar motions. After searching the Senate Journals, no Senate precedent can be found. With respect to House of Commons precedents, it does not appear that the House of Commons has ever divided a Senate bill. With respect to the House of Lords, Erskine May states on page 502:

> Only one attempt has been made to divide a bill brought from the Commons . . . and this was defeated. But the instruction was objected to on its merits as well as on its unprecedented nature and the technical difficulties it would create, so that the propriety of dividing a Commons Bill has not been decided.

● (1420)

[*English*]

With respect to Australian procedure, Odger's *Australian Senate Practice*, Third Edition, states on page 214, "No precedent can be found in the records for an Instruction for the division or consolidation of Bills . . .".

The Chair feels that searching for precedents, in this instance, is not very helpful. With respect to the motion made in the Lords on July 29, 1919, Erskine May states that the propriety of an Upper Chamber dividing a bill from the Lower Chamber has not been decided. The 1919 motion would have been a more useful precedent had a Speaker's ruling been given. That no such ruling was rendered did not prove, in my opinion, that the motion was procedurally acceptable. Erskine May notes that "in the enforcement of rules for maintaning order, the Speaker of the Lords has no more authority than any other Lord, except in so far as his own personal weight and dignity of his office may give effect to his opinions and secure the concurrence of the House. As a consequence, the responsibility for maintaining order during debate rests with the House as a Whole. The Leader of the House has a special part to play in expressing the sense of the House and in drawing attention to cases where the rules of procedure have been transgressed or abused."

The Chair has reviewed the debate in the Lords in 1919 and notes that the Civil Lord of the Admiralty (the Earl of Lytton) raised certain procedural problems which would occur if such a motion was adopted. In any event, the 1919 precedent, in my opinion, remains somewhat tenuous.

The lack of precedents does not in itself prohibit the acceptability of Senator Graham's motion. Without precedents, senators must examine the motion as it is presented to us and decide if it contravenes any procedural rules under which this chamber operates.

The Chair finds that on many grounds the motion presents no procedural difficulties. Proper notice was given of the