

Railway Act

In other words, this limits the powers and responsibilities of the Speaker to deciding on questions of order, not questions of law. This is further confirmed in citation 69(3) of Beauchesne's fourth edition, at page 59:

Standing order 12 being restrictive should be given the strictest literal interpretation.

I should also like to quote Beauchesne's third edition at page 825, which refers to a ruling of the Hon. Lewis Wallbridge, Speaker, made on June 25, 1864:

The hon. Mr. Howland having moved, that an humble address be presented to His Excellency the Governor-General, praying him to recommend to parliament the payment of the balance due by the government for certain expenses incurred in carrying out the treaty of reciprocal free trade between this province and the United States of America, in accordance with an order in council passed on the 14th day of March, 1863, it was objected that it was contrary to the provisions of the 14th chapter of the consolidated statutes of Canada.

The Speaker said: That according to the usages of the British parliament, he was not bound to decide on a question of law.

To bring this ruling a little more up to date, I should like to refer at this time to citation 71(5) of Beauchesne's fourth edition, at page 61:

The Speaker will not give a decision upon a constitutional question nor decide a question of law, though the same may be raised on a point of order or privilege.

Which is what the hon. member did at the moment he raised it as a question of order. But it shall not be the responsibility of the Chair or the Speaker to make a decision.

Lastly, I should like to refer to a more recent ruling made by Mr. Speaker Lemieux, reported in *Hansard* for June 4, 1925, page 3875:

The parliament of Canada is supreme, and if it should pass any act which is ultra vires, the courts would decide the validity of such act. It is not for the Speaker to declare—although he presides over the highest court in the land—as to whether any proposed legislation is ultra vires—

For these reasons, and in view of the citations to which I have just referred my hon. friend and which I have brought to the attention of the house, I cannot agree with the validity of the point of order raised by my hon. friend. I now recognize the hon. member for Middlesex West (Mr. Thomas).

Mr. W. H. A. Thomas (Middlesex West): Thank you, Mr. Speaker. This matter is somewhat technical. I have tried to condense what I have to say into as few words as possible, so I ask the indulgence of the house to stick closely to my notes.

This bill, No. C-27, was first introduced in the session of 1962. It was debated on February 9, 1962, and is reported on pages 742-749 of *Hansard* for that date. As often happens with private members' bills, time ran

out before a decision was reached. The purpose of this bill is to provide the board of transport commissioners with both the authority and the responsibility for setting forth the conditions under which any railway line may be abandoned. I believe my remarks cover in a general way the argument raised by the hon. member for Rosedale (Mr. Macdonald). I am quite familiar with the argument, and without referring specifically to what he has said I think what I propose as I go along will cover his argument.

The MacPherson commission has forecast the abandonment of 8,000 miles of uneconomic railway branch lines in Canada. Lack of patronage indicates that these lines are no longer required. These branch lines served a pressing need in the days of horse-drawn vehicles 50 years ago, but they cannot possibly compete with the modern motor transport, for either short haul passenger service or freight service. On the grounds of economy they should be abandoned, but the government through the board of transport commissioners should accept responsibility for the manner in which abandonment takes place.

Many interests are involved. There is displacement of labour; new jobs must be found; business is disrupted; rail-tied investments are sometimes jeopardized, agricultural delivery points are eliminated, and there are problems connected with the rehabilitation of the abandoned right of way. It was to this that the hon. member for Rosedale made special reference. Abandonment can be carried out as an orderly transition for the community if it is done in an orderly manner. If left unplanned and uncontrolled, abandonment can become for many of the people involved a very disagreeable experience.

As a good instance of unplanned and uncontrolled abandonment, I would draw attention to the developments following the abandonment of the Courtright branch of the New York Central railway, in 1960, which extends from St. Thomas westwards through the counties of Lambton, Middlesex and Elgin. Train service had almost disappeared from the line. Business disruption was slight, but the abandoned right of way created serious and very irritating problems. The rails and ties and any useful culverts remaining were torn out, leaving an unsightly mess. The fences which had been neglected for some years, pending abandonment, were left in deplorable condition and resulted in a livestock nuisance. The right of way subsequently grew up to brush, burdocks, thistles and an inglorious assortment of all noxious weeds known to the district.

Railways are always a nuisance in farm areas because almost invariably they divide