

*Freight Rates*

**Mr. Argue:** On the technicality raised by the Prime Minister, Mr. Speaker, may I say this. I have not the statute in front of me, but I am certain I am right and the Minister of Justice will correct me if I am wrong. Under section 53 of the Railway Act the governor in council, of course, has the power to set aside a freight rate increase following an appeal. But the governor in council of its own initiative also has the authority to set aside any order of the board of transport commissioners. It is because of this authority, apart altogether from whether or not there is an appeal before the cabinet, that I have brought this motion before the house. In my own experience in parliament, we have on many occasions debated the general question of impending freight rate increases following such an announcement.

**Mr. W. M. Benidickson (Kenora-Rainy River):** Mr. Speaker, my question was to the Prime Minister. Is it possible for the Attorney General for Canada to appeal a judgment by the board of transport commissioners, in this instance to the Supreme Court of Canada?

**Mr. Diefenbaker:** Mr. Speaker, I cannot say offhand. That would be a legal opinion, and I am unable to answer that question offhand.

**Mr. Speaker:** May I ask whether this matter is one which could be discussed under the supplementary estimates, which are the next order of proceedings? There are transport items in the supplementary estimates. I am not sure whether the items are such as would permit reference to this matter, but it would be helpful if I knew.

**Hon. Donald M. Fleming (Minister of Finance):** Mr. Speaker, I do not know whether you expect me to make a comment on your last observation. The items awaiting consideration by the committee of supply this afternoon in the final supplementary estimates do not appear to me to touch on this question.

In the main estimates there is always an item to provide for the payment of salaries and other expenses of the board of transport commissioners. Matters pertaining to the jurisdiction of the board or orders issued by them are sometimes discussed on the main estimates under that item, if I recall correctly. However, in the present case I do not believe that any reference to this subject would relate to any of the items in the final supplementary estimates.

Perhaps I might add this comment. When the hon. member for Assiniboia talks about such matters having been discussed in the house in times past, it is true that there have been discussions about freight rates in the light of orders issued by the board of

[Mr. Benidickson.]

transport commissioners, but not, in my submission, in cases where an appeal is pending from such an order.

The Railway Act makes provision for two kinds of appeals from an order or decision of the board of transport commissioners. There is an appeal to the Supreme Court of Canada on a question of law or jurisdiction. There is also a right of appeal to the governor in council, which is not restricted to such questions. In the present case the parties have entered an appeal to the governor in council. Therefore this question is now most plainly sub judice.

**Mr. Speaker:** I thank the Minister of Finance and the Prime Minister for their assistance in dealing with the question which has been raised by the hon. member for Assiniboia. The hon. member asks that we interrupt our proceedings today which, as all hon. members know, is the last day of sitting before the Easter adjournment pursuant to an order already made by the house.

There is on the agenda some very important if not essential work for the house to undertake. I should think, therefore, that the hon. member would have to make a very strong case in order to interrupt the proceedings as they have been planned and ordered.

The immediate event which he has suggested raises a matter of urgent and immediate importance is a decision of the board of transport commissioners which will change freight rates on grain moving in an area of Canada between Georgian bay and eastern ports. If I am correct, an appeal has been taken from this order to the governor in council.

It has been suggested that the governor in council is a court and that the matter is sub judice. I am not prepared to accept that argument, but it is perhaps not necessary for me to deal with that question for the purpose of making my present decision. Has the house the right to discuss and consider the transport board's decision before the cabinet exercises its discretion on the appeal? Perhaps I do not have to make a pronouncement on that point and had better leave it as a doubtful submission.

I think on the broader issue the railway freight structure of this country is subject to constant review and change. Orders are made from time to time by the board and it does not seem to me that when any particular order is made it should be the occasion for interrupting the orderly consideration of freight rates in the way that has been prescribed by parliament, namely by the transport board, by appeals, and by debate in parliament as well as by legislation on a