

fair—and I know Your Honour always tries to be fair—to limit his remarks after the house has allowed other hon. members to consider the matter at some length.

Mr. GARDINER: Mr. Speaker, last night I was in the house when two hon. members did discuss this matter, namely the hon. members for Lisgar and Souris. It was not discussed at great length.

Mr. COLDWELL: I said "at some length".

Mr. GARDINER: Yes, it was at some length, and at sufficient length to have resulted in its being ruled out of order, if, indeed, it is out of order. The point was brought up by those of us who were in the chamber at the time as to whether that question should be raised. I do not know whether any study has been given to the matter since that time. But if there has not been, inasmuch as we have only another hour and a half before concluding today's sitting, and so long as there is not a lengthy discussion on the subject, probably in fairness to those who desire to say a word or two on the matter it would be better to permit them to proceed, and to have a final decision before we begin discussion again tomorrow.

Mr. DEPUTY SPEAKER: Mr. Speaker has given the matter some consideration since it was mentioned in the house. I hold in my hand a written memorandum, the contents of which I have not seen nor have I discussed with Mr. Speaker, but which, I am sure, he would have no objection to my reading at this time. Apparently he has given it careful consideration.

Mr. GARDINER: I was not aware it had been given study. If it has, we would like to have the benefit of it.

Mr. DEPUTY SPEAKER: I shall read the memorandum.

Mr. COLDWELL: I must suggest that, whatever Mr. Speaker's memorandum may be, the proceedings having been allowed to go as they have gone, the suggestion offered by the Minister of Agriculture (Mr. Gardiner) is the one which should be considered. I would not be inclined to appeal a ruling on the ground that if Your Honour gave a ruling it would be the wrong one; I would be inclined rather to appeal on the ground that a matter of equity is involved, and that because of that a ruling should not be given.

Mr. GRAYDON: You are getting to be quite a lawyer.

Mr. COLDWELL: Thank you.

Mr. DEPUTY SPEAKER: Perhaps it would be better if I were to read this memorandum, so that it may be on record. Then the hon. member for Wood Mountain (Mr. Argue) could govern his remarks accordingly. The memorandum states:

Some reference has been made during the present debate to the question of freight rates. It is a matter of public information that the board of transport commissioners is at present hearing an application by the Canadian railways for an increase in freight rates. For this reason, I have been somewhat concerned with regard to the matter and thought it well to make a statement in regard thereto.

I am fully aware that the question of an increase of freight rates is a matter of great public interest, and that this public interest was bound to reflect itself in this House of Commons. I am also aware that our parliamentary system is one based on the right of free speech, and particularly on an exercise of this right, by the elected members of this house.

However, I think it my duty to bring to the attention of the house, the long-established rule of Canadian parliamentary practice, that a member while speaking must not refer to any matter on which a judicial decision is pending. (Beauchesne's third edition, citation 246 (c)). I may say that the same rule applies in the British House of Commons. (May, fourteenth edition, p. 430.)

Section nine of the Railway Act provides that the board of transport commissioners for Canada shall be a court of record. It is quite clear, therefore, that proceedings taking place before the board of transport commissioners are *sub judice*, and reference to such matters is barred by the rule to which I have referred.

It might be well for me to point out to the house that the board of transport commissioners, formerly known as the board of railway commissioners, is set up under the provisions of a statute duly enacted by the Canadian parliament. Every section of Canada is represented on the board and there is little doubt that parliament in creating this board felt that matters within its jurisdiction could best be dealt with by an independent board, free from what might be described as the heat of party politics. The members of the house will, I am sure, desire that the board should have an opportunity of discharging its duties impartially and without prejudice. Any judicial body is given like protection under our system of government. For instance, the press with all its freedom is restricted in its right to comment on matters being adjudicated upon by a court of record.

It is of course the privilege of any hon. member of this house who is sufficiently interested to make his representations to the board at its present sittings.

I would also point out the Railway Act provides that any party interested may petition the governor in council to vary or rescind any order or decision of the board. After the board has completed its work or, should such an application be made to the governor in council, this house will have ample and proper opportunity to debate the whole matter.

In making this statement, I have not overlooked the fact that the only discussion excluded by the rule is the matter actually before the board of railway commissioners, namely, an application by the railways for an increase in