

Transportation

suggestion out for Your Honour's consideration.

And the house having resumed in committee.

The Chairman: The committee will now proceed to a consideration of clause 1 and the amendment moved thereto by the hon. member for Calgary South.

On clause 1—*National Transportation Policy*.

Mr. Pickersgill: Mr. Chairman, the hon. gentleman's amendment was not actually put to the committee last night. That was at my request, because I wished to consider overnight whether this kind of amendment is competent to be moved under this bill.

I was quite tired last night and perhaps my faculties were not all they should have been, but when looking at the amendment I felt it went beyond the scope of the bill, in the same way the amendment moved by the hon. member for Nickel Belt went beyond its scope.

I realize that this is not strictly speaking a point of order, but there is another problem we must consider, and that is whether or not the amendment seeks to do something which, if it were to have any legislative effect, could only be done after an amendment to the constitution had been made and, perhaps in all cases, could be done only by a provincial legislature. I do not particularly want to enter a discussion on that point, but perhaps your honour would consider it.

This bill seeks to lay down a national railway policy, but does not in any way seek to make any provision in respect of municipal affairs, municipal taxation, the apportionment of municipal taxation or the appropriate burden to be borne by one person in a municipality as compared with another.

As to whether this amendment goes beyond the scope of the bill, it might be argued that clause 1 is only declaratory of principles, and that it has no operative effect, though it is intended to guide those who will make decisions in respect of those clauses which do have an operative effect. It does seem to me that it would be rather difficult for these proposed amendments to be related in any way to any of the operative parts of the bill. Perhaps your honour would consider the question as to whether this amendment does go beyond the scope of the bill.

Mr. Baldwin: Mr. Chairman, I am not sure I am entitled to speak to the merits, but before attempting to do so I wish to deal with the point referred by the minister for your

honour's consideration. If you read the amendment you will note, as the minister pointed out, that it suggests there be an insertion to the declaration of policy or intent. It cannot be considered that any part of clause 1 constitutes an imperative or mandatory direction to the government. It simply suggests that in the view of this house the national transportation policy should contain certain things, and that the government and the Transport Commission to be appointed should take into account certain things in rendering a judgment.

The hon. member for Calgary South was careful in his amendment and included the words "so far as practicable". That is very important because those words can be stretched far enough to include a direction to the commission and the government to do something so far as practicable within the terms of our constitutional limitations. If an argument in this regard is to be raised in a serious way I hope the minister will direct our attention to the specific statutes which might constitute a constitutional barrier. I think I have an idea what they are.

Not only does the argument in respect of this amendment involve a constitutional aspect, it involves, as the minister has stated more peremptorily, the question as to whether it goes beyond the original scope of the bill.

The amendment in part states:

(ii) each mode transport, so far as practicable and without prejudice to any single mode, bears a fair proportion of the costs of local government services in those municipalities in which the mode of transport operates.

I think by this amendment the Transport Commission is being directed in its deliberation to bear this in mind. Surely that was the purpose of the hon. member for Calgary South, and it is a very laudable purpose. I can recall that not so very many years ago the city of Winnipeg initiated proceedings, which went as far as the Supreme Court of Canada, and possibly as far as the Privy Council, challenging the right of the Canadian Pacific Railway to exempt itself from the payment of local taxes in this way. I remember that case well because I was involved at that time in a consideration of other aspects which dealt with Crownsnest pass rates.

Many of us in the west feel that if the C.P.R. was right in one instance in insisting on a rigid adherence to the letter of the law, the statutes and statutory contracts, it should adhere to the letter of the law so far as