

Transport and Communications

Mr. Speaker: Order, please. The hon. member for Winnipeg North Centre on a point of order.

Mr. Knowles (Winnipeg North Centre): With respect, I submit that the President of the Privy Council is debating the substance of the report. The motion has not been moved. He has no right to violate the rules of the house in this way.

Some hon. Members: Hear, hear.

Mr. Macdonald (Rosedale): Mr. Speaker, one wonders why hon. members are so anxious to prevent my stating my point of order. I have not at all got to the substance of the report. I trust that I might be heard on my point of order so that Your Honour will be in a position to rule on it. My point of order is on a twofold basis. I indicated in the first place that in effect the report attempts to do something which neither the house nor any of its committees could do, that is, by itself repeal an act of parliament without a bill.

The second point is that the subject matter referred to in the report is sub judice. Perhaps I could point out the basis for raising the point of order. I hope I will be heard in this regard. Under the Railway Act provision was made for an appeal from the Board of Transport Commissioners of Canada to the government—

Right Hon. J. G. Diefenbaker (Prince Albert): Mr. Speaker, on a point of order—

Mr. Speaker: Order, please. The hon. member for Prince Albert on a point of order.

Mr. Diefenbaker: Mr. Speaker, is the minister going to have the privilege of rewriting that with which he does not agree? First, there is the suggestion that certain committees are directed by Liberal members and that they should carry out the wishes of the government. Now we have a recommendation from a committee, and the minister does not accept it. In other words, it is further evidence of how far removed from actuality and reality is the committee system when a minister starts to rewrite that which he does not like.

Some hon. Members: Hear, hear.

● (2:10 p.m.)

Mr. Speaker: Order, please. I have to bring to the attention of the minister and of all hon. members that the Chair is in a difficult position. Actually I do not know at this point exactly what is the point of order of the [Mr. Knowles (Winnipeg North Centre).]

minister. In point of fact the only matter with which the Chair is faced at the present time is the motion by the hon. member for LaSalle (Mr. Lessard) that the fifth report of the Standing Committee on Transport and Communications be concurred in. I have some serious doubts, as other hon. members appear to have, as to whether we can go behind this motion to question certain procedural aspects of the report at this time. This seems to be what worries a number of hon. members, particularly the hon. member for Nanaimo-Cowichan-The Islands (Mr. Douglas).

Perhaps the minister might come to the point quickly and I will hear other hon. members on this subject. In view of the uncertainty of the situation I might be allowed to take the matter under advisement. But for the purpose of order, the minister might be allowed a few moments to indicate what exactly is the point of order.

Mr. Macdonald (Rosedale): Mr. Speaker, I thank you for this opportunity and will repeat that my point of order is founded on two bases. The first is that if it was out of order for the committee to make that report, it would be out of order for this house to be asked to concur in it, because it is in essence beyond the power of parliament to act by way of resolution rather than by bill. The second reason is that the matter in question in the report is in fact sub judice before what is declared by law to be a court of record, and I should like to refer to certain provisions in Beauchesne and in May's seventeenth edition which, I maintain, support the point of order that I am making. So I wonder if I might be heard in this regard.

As I indicated, the Board of the Transport Commissioners of Canada was declared to be a court of record for the purposes of the law, and under the National Transportation Act which was passed by this house on February 9, 1967, that status was continued in relation to the Canadian Transport Commission. I should like to refer Your Honour to the Railway Act which is in the revised statutes, 1952, section 53 (1). I will not set out in full the provisions of that section, but will point out in other words that parliament has already dealt with the matter of appeals from the Canadian Transport Commission and has indicated that appeals are to be made by way of applications to the Governor in Council, and not by application to this house or any committee of this house. In short I submit