

Transport and Communications

words of that Order in Council as it relates to this particular matter are as follows:

• (5:20 p.m.)

Therefore, His Excellency the Governor General in Council, on the recommendation of the Minister of Transport, is pleased to order that, effective April, 1949, the Newfoundland Railway, including rights-of-way, wharves, dry docks and other real property, rolling stock, equipment, ships and other personal property... the title to which is vested in His Majesty, be and they are hereby entrusted in respect of management and operation thereof to the Company on the terms in the Canadian National Railways Act expressly specified, namely, that such management and operation shall continue during the pleasure of the Governor in Council—

This matter is a constitutional one which cannot be dealt with by any delegated authority of this or any other parliament. It can only be dealt with, in my submission and on the best advice I can get, by an act of parliament of the United Kingdom amending Chapter 22 of the Imperial Acts, 1949, cited as the British North America Act, 1949, by an amendment of the Parliament of Canada act entitled an Act to Approve the Terms of Union of Newfoundland with Canada Statutes of Canada, 1949, and by amendment of the statutes of the province of Newfoundland. These three parliaments and these three only have the authority which the Canadian Transport Commission has now taken upon itself.

Mr. Allmand: May I ask the hon. member a question?

Mr. McGrath: I would rather not at this point because I am making an argument. I will allow the hon. member to ask any question when I take my seat. The union of Canada with Newfoundland was entered into as a legal act and the terms were negotiated by the commission-type government we had prior to 1949. The successor to that commission-type government is the government of Newfoundland which is the Governor in Council and the legislature of New Newfoundland. They were indeed exercising their authority in this matter when they passed their unanimous resolution. It is again emphasized by section 1 of the constitution, the British North America Act, 1949, that these terms prevail as law against any power Canada may have under section 91 or other sections of the British North America Acts, 1867 to 1946.

I have already referred to Term 31 under clause A of the terms of union of Newfoundland with Canada. The parliament of Canada has no constitutional power to eliminate all or

any of the public services provided at the date of union by the Newfoundland railway as a mode of transport. That, in my submission, is clearly spelled out by the terms of union in the statutes of Canada, the statutes of Newfoundland and the statutes of the United Kingdom. So rather than send this matter back to the Standing Committee on Transport and Communications where it will die, and I can promise a slow and unnatural death, the government would be better advised to refer it to the Supreme Court of Canada to have this question of law settled. That would be perfectly within their right under subsection 2 of section 53 of the Railway Act.

What will be the effect if the report does go back to the committee? The government house leader will have his way as he is determined to. The distinguished hon. member for LaSalle will resign, because that is all he can do. He must resign. He cannot go back to the committee again. The government has questioned his report and has signified this clearly and without a shadow of doubt by moving to send the report back. The government has voted no confidence in the hon. member for LaSalle as the chairman of the committee and therefore he must resign. So we will have another chairman. I hope the hon. member for LaSalle will remain as a distinguished member of the committee under the new chairman.

An hon. Member: How about the hon. member for Notre-Dame-de-Grâce?

Mr. McGrath: I hope that when the hon. member for Notre-Dame-de-Grâce goes back to the committee he will find himself in covenant, and if he does not know what that means it is something akin to purgatory. If the report is sent back it will have a devastating effect on the committees of the house and their future under the new rules. It will render the work of these committees nothing short of window-dressing for the government, nothing short of a method, albeit a surreptitious one, of keeping backbenchers in line and giving them something to do. That will be the effect of it.

Rather than upset the system of committees which is now functioning, rather than now dealing what could be a death blow to the committee system and rather than depriving the people of Newfoundland of this limited means of transportation, the government would be well advised to take cognizance of the very serious deficiencies which exist in