

Oral Questions

Vegreville are just reflecting the views of distinguished legal minds on the subject. There is a debate among lawyers regarding not only the particular recent order in council on VIA, but all orders in council passed under Section 64 of the National Transportation Act. Some of them say that these must be registered, and others say they do not. There is a debate on the subject. My lawyers, and I have a number of them—

Some hon. Members: Oh, oh!

Mr. Crosbie: You'll need them!

Mr. Pepin:—say that these orders in council do not need to be registered. They quote a number of precedents to that effect. However, they are looking into this very interesting discussion in greater depth.

Should there be a doubt about the matter, and this is the important part of my answer, we will pass a new order in council and will have it registered. The important thing is that such a decision, such a move on our part, would not change the substance or the date of implementation of the decision made in the order in council.

Mr. Clark: Shame!

Mr. Baker (Nepean-Carleton): Shame!

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RAILWAYS**OBLIGATION TO PROVIDE PASSENGER SERVICE**

Hon. Don Mazankowski (Vegreville): That is a most contemptuous and arrogant response, because there is clearly doubt in the minds of the vast majority of Canadians about the minister's action, and I think that that should be taken into account, as well.

I would like to ask the minister whether he is aware of the fact that under existing CTC order R26-520 and R-6751, and pursuant to Sections 260, 261 and 262 of the Railway Act, the railways, namely, the CN and CP, have a continuing obligation to provide rail passenger service, notwithstanding the creation of VIA Rail and notwithstanding its withdrawal of the service as contemplated by the minister in his order. Is he further aware of the fact that the Canadian Railway Labour Association will be making an application to the CTC to order the CN and the CP to restore passenger service on those lines which VIA will vacate should the minister's decision go through?

Some hon. Members: Hear, hear!

Hon. Jean-Luc Pepin (Minister of Transport): Madam Speaker, because I suspected that the question would be raised, I asked my lawyers to look into precedents. I may soon be in a position to demonstrate that my hon. friend made a decision similar to the one we are talking about now. We will know more about that later on today. The only thing I know, and I will presumably be talking about that tomorrow in front

of the committee on regulations, is that Section 64(1) of the National Transportation Act is very clear. It has been interpreted by the courts on a number of occasions. The courts have said repeatedly—and I will quote that, chapter and verse, tomorrow—that there is no restriction on the rights of the government to vary or rescind orders passed by the Canadian Transportation Commission.

I did not have all morning to talk about the debate with my lawyers but, as I understood it, the debate concerns what the major consideration should be. In other words, is it the document being amended, or rescinded which conditions the registration, or is it the instrument that commands the change?

Mr. Nielsen: That's like Gilles Lamontagne—up and down, up and down.

Mr. Pepin: Some of the hon. members on the other side have degrees in law; so do I.

● (1420)

The changes that were made were made to orders of the CTC, and consequently they were not changes to regulations of the CTC. Because they were changes to orders they do not have to be registered.

APPLICATION TO COMMISSION TO RESTORE SERVICES

Hon. Don Mazankowski (Vegreville): Madam Speaker, the minister, either accidentally or deliberately, chose to ignore the question I asked, which had to do with the ongoing statutory responsibilities of the railroads, namely, CN and CP. Notwithstanding the minister's actions under Section 64, there are overriding CTC orders, namely R26-520 and R-6751, and pursuant to Sections 260, 261 and 262 of the Railway Act the railways are compelled to provide a passenger service. Is the minister aware of that? Is he also aware that an application will be made to the CTC to force the CN and CP to restore services on those lines which VIA will vacate?

Some hon. Members: Hear, hear!

Hon. Jean-Luc Pepin (Minister of Transport): Madam Speaker, I can only answer the question the way I did, which was to state emphatically that under Section 64(1) of the National Transportation Act the Canadian government, by order in council, can rescind or vary any order that the Canadian Transportation Commission has passed. That is what the debate is all about.

Mr. Mazankowski: You didn't rescind the other orders. Those two orders are still in existence.

Mr. Baker (Nepean-Carleton): Resign.

Some hon. Members: Oh, oh!