

*Transportation*

aspect of the commission. There will not be, under those circumstances, that independent, free and objective attitude taken by some members toward decisions made by others. I hope I am wrong but I must say, having in mind my professional experience as a result of applications in courts and in argument presented to the Board of Transport Commissioners, that this appears at first blush to be a reasonable objection.

Let me follow up the question of the research aspect of the commission. I am wondering whether or not, as a result of the views regarding the entire ambit of transportation which will flow from this research unit, the government—I use that word with a small “g”—will become so imbued with them that any subsequent legislative proposals will not be likely to be changed or varied. If that happened the task of those who think they have a legitimate objection to certain proposals would become very difficult indeed.

• (6:20 p.m.)

The minister has said there is a limited number of people in this country with the varied knowledge and background essential to be of assistance to the government of Canada. I think some consideration should be given to the establishment of a national transportation research institute, partly financed by federal and provincial governments, which would make its massive information and its opinions available to all people and governments. This would not prevent the national transportation commission or the government from having access to its own expertise. I think this suggestion has been discussed from time to time during the course of studies by royal commissions. As a matter of fact, Mr. Speaker, I thought it was original, but when one reads back one finds there is nothing original in this house or in politics. However, I suggest that the government give this matter consideration.

The second point that worries me at this time is that Bill No. C-231 incorporate certain provisions of the Railway Act of Canada. For example, the Board of Transport Commissioners has for a number of years taken the position that it is inhibited in its jurisdiction. It has taken a very narrow view of its powers because of what it feels are the statutory provisions under which it was created and operates. I shall not deal with all of them, but I have here the report of the Turgeon Royal Commission made some time ago. In the general review at page 23 of the report Mr. Justice Turgeon deals with the

decision of the board in connection with an application for a 30 per cent freight rate increase. He says:

In the first decision of the board filed in the 30 per cent application on March 30th, 1948, the position of the board with respect to its jurisdiction and powers to reduce rates to assist industry or to equalize,—

I think these are very important words:

—through the prescription of reduced rates, production costs, geographical location, or climatic conditions, was dealt with at considerable length. The following extracts from its decision indicate clearly the opinion of the board as to its own powers and as to the discretion left to the railways concerning these matters.

Running very briefly through some of them, they are:

“In other words, while members of the board may and do, as Canadians, sympathize with policies of economic development which may through increasing diversity lead to greater economic solidarity, it is not their general opinions but the powers conferred on them by the Railway Act which determine what they can do. Very wide powers, it is true, are given under the Railway Act; but the Railway Act is not to be construed as if it were a blank cheque to be filled in as members of the board see fit. It is not the board's function, as delegated by parliament, to make rates to develop business, but to deal with the reasonableness of rates either on complaint or of its own motion.”

The board said also:

“Railways are not required by law, and cannot in justice be required, to equalize natural disadvantages such as location, cost of production and the like.”

The board said it did not have the power to compel them. And so on, Mr. Speaker. The first two pages of Mr. Justice Turgeon's report are simply littered with comments of this kind. My view is that the national transport commission, inheriting under the provisions of this bill the powers, jurisdiction and ability to make decisions on the principle of *stare decisis*, will be bound in this regard and will very probably take as narrow and as limited a view as the Board of Transport Commissioners. I think that somewhere in the bill there might be placed a section directing the commission to have regard to many of those factors to which the Board of Transport Commissioners said it was unable to give effect. I notice that the bill says in clause 1:

It is hereby declared that an economic and efficient transportation system making the best use of all available modes of transportation at the lowest total cost is essential to the economic well-being and growth of Canada—