

*Transport and Communications*

the committee's terms of reference; 2, whether the report offends the sub judice rule or doctrine, and 3, possible objection with the form of the report.

First, dealing specifically with the terms of reference of the committee I would remind hon. members that that argument was not made seriously by any hon. member, and indeed the President of the Privy Council said that he was not putting forth a view in this regard, and so I will not consider that aspect of the matter in any way.

The second important point is whether the report offends the sub judice doctrine, and in the course of the discussion many clauses in the Railway Act have been referred to me for consideration. I doubt very much whether it is the duty of the Chair to take the Railway Act or any other statute to see whether or not the report submitted by the committee offends in any way some of the clauses of any statute.

It has been said that the House of Commons might inform the government of its opinion on the matter since, according to section 53 of the Railway Act, the Governor in Council may vary or rescind an order or decision of the Canadian Transport Commission. That is the kind of argument that has been submitted to the Chair, and in my submission it is not the kind that the Chair should be asked to review. The Chair, as I have said, should not be invited to go into the constitutional aspects, the jurisdictional aspects of a statute or of a clause of a statute which has been considered by a committee. These considerations, I suggest, should not be adjudged by the Speaker. These matters may be adjudged by the house itself and the way to proceed is by means of a motion. On the motion for concurrence it may be that the report be not now concurred in and that it be referred back to the committee for further consideration or for the purpose of deleting the paragraph which recommended that the order of the Transport Commission be left in abeyance.

My suggestion to hon. members is that none of those considerations should be decided upon by the Chair at this time.

A similar question was raised in this house on July 1, 1919. I am sorry that I have to refer so far back, but at the same time I am comforted in the fact that the hon. member for Winnipeg North Centre (Mr. Knowles) in support of his case referred back to 1874. That report can be found at page 498 of the

Journals of 1919, when, on the motion for concurrence in a Committee report a point of order was raised, to the effect:

—that as certain proceedings in the committee were irregular, the house should refuse to entertain the report of the committee, but that it should be referred back to the said committee for further consideration.

On that occasion Mr. Speaker ruled:

—that the point of order was not well taken inasmuch as the alleged irregular proceeding complained of took place in the committee and the house is only seized of the proceedings of the committee from the report presented to the house. There is no reference in the report whatever to any question having been raised in the committee and, therefore, my ruling is that it is not competent for this house to go back of the report which is now in its possession.

I must make the same ruling in the present case.

Dealing with the third specific point, the form of the report, I might say that this was the aspect which gave me great difficulty, and the hon. member for Peace River (Mr. Baldwin) mentioned that he had little doubt that the form of the report was acceptable.

My own understanding is that the established form of a committee recommendation dealing with legislative proposals is that the government take into consideration the advisability of introducing legislation for a specified purpose. The wording of this committee's recommendation is a departure from the established practice in that the words "take into consideration the advisability of" are not included.

Both the hon. member for Winnipeg North Centre and the hon. member for Peace River suggested that this should not be considered as a serious objection or an obstacle in that the words used were tantamount to the words normally used in a report from a committee. If indeed I felt that the omission of these words would result in the recommendation being interpreted as a direction rather than a mere recommendation, it is doubtful that the report could be accepted. On the other hand, I have some doubt as to the advisability of referring the report back to the committee for the sole purpose of effecting a purely formal modification.

At the same time I should caution hon. members that committee reports should be drafted according to procedurally acceptable forms. There are countless precedents to which hon. members could be referred in that regard. As I have indicated the form of the report should not and cannot, directly or by