

*Railway Act***PROCEEDINGS ON ADJOURNMENT
MOTION**

[English]

SUBJECT MATTER OF QUESTIONS TO BE DEBATED

Mr. Speaker: It is my duty, pursuant to Standing Order 40, to inform the House that the questions to be raised tonight at the time of adjournment are as follows: the hon. member for Egmont (Mr. MacDonald)—Fisheries—Irish moss fishery in Maritimes; the hon. member for Surrey-White Rock (Mr. Friesen)—Fisheries—British Columbia—Seasonal employment for nationals of other countries; the hon. member for Battle River (Mr. Malone)—Canada Council—Guidelines for allocation of grants.

It being five o'clock, the House will now proceed to the consideration of private members' business as listed on today's order paper.

[Translation]

Mr. Yvon Pinard (Parliamentary Secretary to President of Privy Council): Mr. Speaker, I think there is unanimous consent to proceed with consideration of Bill C-213 and that the previous bill be allowed to stand.

[English]

Mr. Paproski: Agreed.

Mr. Knowles (Winnipeg North Centre): Agreed.

Mr. Speaker: Is it agreed that the House will now proceed to the consideration of Bill C-213 and that other bills will retain their order of priority on the order paper, unprejudiced by our proceeding with this bill at this time?

Some hon. Members: Agreed.

Mr. Speaker: Agreed and so ordered.

PRIVATE MEMBERS' PUBLIC BILLS

[English]

RAILWAY ACT

MEASURE AMENDING DEFINITIONS

Mr. Bob Brisco (Kootenay West) moved that Bill C-213, to amend the Railway Act (definitions), be read the second time and referred to the Standing Committee on Transport and Communications.

He said: Mr. Speaker, in beginning debate on my private member's bill I think a brief history relating to the reason for introducing this bill is essential to the understanding of its purpose and intent.

[Mr. Speaker.]

Before the turn of the century, in the 1880's, a number of small railway companies were formed in Kootenay West to serve mining communities and mines near Kootenay Lake and Slocan Lake. These lines were leased to the CPR over a period of years.

In 1898 the CPR leased, in perpetuity, a line from Proctor to Nelson built by the British Columbia Southern Railway Company. In 1903 the CPR leased, for 999 years, the line built by the Kootenay and Arrowhead Railway Company, and in 1921 the CPR leased the line from Kaslo to Sandon built by the Kaslo and Slocan Railway.

This network of railway lines led to and from Kootenay Lake to connect with the CPR's rail barge link which operated until July 31, 1975, at which time the CPR abandoned the service.

Why a rail barge? Why not a railway? The decision to employ a rail barge made good economic sense. It was a relatively short haul by water of some 20 to 25 miles. The alternative would have been a rail line down the west side of the lake of some 50 miles to Nelson, or up to the head of the lake to the eastern shore and thence to Creston, about 150 miles. In both cases the rail line would have traversed forbidding terrain, with enormous engineering problems.

After the CPR abandonment I appealed to the Rail Transport Committee of the Canadian Transport Commission to hold a hearing regarding the abandonment. The committee denied the hearing on the ground that it did not have jurisdiction. In the fall of 1975 the Rail Transport Committee agreed to accept arguments as to whether or not it had jurisdiction. The CPR submitted its case, I submitted mine based on considerable research and study, and the province of British Columbia submitted its brief in support of my position.

A year later, in October of 1976, the Rail Transport Committee decided that on the basis of arguments presented and the committee's own careful study, it indeed has jurisdiction over rail barges and that they were indeed an integral part of a railway line. The committee then ordered the CP rail barge back into service. The CPR appealed this decision to the Federal Court of Canada in Vancouver in September of 1977, and won its appeal. The Rail Transport Committee presented argument, as did the ministry of the attorney general of British Columbia and the Attorney General of Canada (Mr. Basford). Again, the rail barge service was abandoned. In December of 1977 the Attorney General of Canada asked the Supreme Court of Canada for leave to appeal the case to the highest court of the land—save parliament—the Supreme Court of Canada. The appeal was granted, and the case will be heard this year in the Supreme Court of Canada.

In the particular case of the rail barge service on Kootenay Lake there is no doubt that Canadian Pacific Limited of today succeeded to the right and obligation to operate and maintain such barges from a railway which was given this right and obligation under the umbrella of a federal act.

Confirmation that the barge service on Kootenay Lake is part of a railway is also found in a letter of the general