

*Transportation*

subsidize their uneconomic services through their economic ones, that the freight services should not subsidize the passenger services. The commission also mentions that the railways must, in the public interest, operate uneconomic services; that is when the commission recommends that the costs be borne by the public treasury. Also, with regard to transportation by rail, the MacPherson commission mentions the Crowsnest pass rates and the rates applicable to export grain. It is understood that those rates must be maintained and that the losses suffered by the railways, if any, must equally be borne by the public treasury.

In the recommendations of the said commission, mention is made of special assistance to the Atlantic provinces, of the principle of special assistance to the Atlantic provinces which should be maintained and of a special study to be made so as to determine whether the principle could not be more efficiently implemented by other means.

Evidently, such Canadian transport commission must meet all the complex problems of Canada and that is why at this stage, I do not intend to say any more on the various viewpoints we could bring up on this bill. We know the legislation will be referred to a parliamentary committee; we trust, Mr. Speaker, that interested individuals will be called before the committee and that it will even be authorized to travel so as to observe the material, economic and equitable conditions of various methods of transportation in the various areas of the country.

To-day, I should like to state two points of view lingering in my mind with some concern. Involved is highway transport which the national commission would take over. My second remark, which I shall revert to in closing, bears on the future attitude of the railways toward highway transport.

Will the railways, like the C.N.R. for instance, be in a position to continue to intervene, by all kinds of direct and indirect means, with highway transport and compete with it in an underhanded way, particularly in relation to trucking?

When speaking of transport, Mr. Speaker, we refer, evidently, from the constitutional standpoint, to the British North America Act, especially to subsection 10 section 92 which stipulates the constitutional authority in the field of transport. Obviously, section 92 does not give in detail the modern means of transport because in 1867, there was no trucking,

[Mr. Allard.]

no automobile transport, and the various aspects of transport could not be mentioned. That subsection 10 of section 92 reads as follows:

Local Works and Undertakings other than such as are of the following Classes:

Evidently, section 92, subsection 10, gives exclusive authority on local works and undertakings other than those mentioned in (a), (b), (c).

This means that (a), (b) and (c) come under federal authority. Those exceptions in subsection 10 of section 92 are indicated as follows:

Lines of Steam and other Ships, Railways, Canals, Telegraphs, and other Works and Undertakings connecting the Province with any other or others of the Provinces, or extending beyond the Limits of the Province.

Consequently, when the federal government and the minister introduce a piece of legislation, concerning, for instance, inter-provincial, international or extra-provincial highway transport, the minister is in a very good constitutional position, since according to the letter and the spirit of the constitution, authority is conferred on the central government in the field of interprovincial transport. This was confirmed by the Privy Council in London in a decision rendered on February 22, 1954, in the Winner case.

May I be allowed, Mr. Speaker, to read the main paragraphs of that Privy Council's decision which enable us to reconsider together the position and the constitutional decisions rendered in the field of inter-provincial transport.

[English]

The power of a province to control its own roads does not entitle it to interfere with connecting undertakings that fall within section 92(10)(a) of the British North America Act or impair Dominion jurisdiction in relation thereto. Legislation of a province which denies the use of provincial roads to such an undertaking or sterilizes the undertaking itself is an interference with exclusive Dominion authority. Whatever provisions or regulations a province may prescribe with regard to its roads, it must not prevent or restrict interprovincial traffic. It may, of course, prescribe traffic regulations but its legislation must be confined to such matters.

● (5:10 p.m.)

It is not desirable nor is it possible to define precisely the limits within which use of provincial highways may be regulated. Nor need the court be concerned with the question whether a province was entitled to plough up its roads and so make interprovincial connections impossible. So isolationist a policy was unthinkable. The roads existed here and in fact formed a connection with other provinces and with another country. It is immaterial