

Trans-Canada Highway Act

On the other hand, according to the answer given by the Prime Minister (Mr. Diefenbaker) to the hon. member for Assiniboia (Mr. Argue), some time ago, no official talks, so far, have been opened with the provinces in connection with that project. In my view, it is high time such a meeting were called, because two or three western provinces have already completed their highway, and it would be desirable that plans be made for the construction of highways, that would be of national interest.

Of course, I should be ill-advised if I stated an opinion on a project about whose nature or general character we know nothing; however, in my opinion, it is a project about which we should be cautious. As remarked by Mr. Pierre Vigeant in *Le Devoir* for July 23, 1959, certain federal undertakings should not be regarded as precedents justifying the government in taking up highway construction, which except in extraordinary circumstances, is under provincial jurisdiction.

Of course, the exceptions provided under paragraph 10 of section 92 are most insidious, and of such a nature as to give rise to all sorts of misunderstandings and interpretations. Already, on March 18, 1912, a senator whose opinion our hon. friends of the opposition would no doubt hesitate to disclaim, Sir Richard Cartwright, expressed himself very clearly on that point, in a debate of this nature, and I quote from the *Hansard* of the Senate for March 18, 1912, page 517:

What are those exceptions?

He is referring of course to the exceptions provided under section 92, paragraph 10, of the British North America Act of 1867:

What are those exceptions? Lines of steam and other ships, lines of steamships between the provinces, and lastly, such works situated within the province which are declared to be for the general advantage of Canada. I know how easily legal gentlemen of experience can drive a coach and four through any act of parliament that was ever drafted, and I suppose that it would be technically possible for the hon. gentleman to declare all these small roads, wherever they may be, to be works for the general advantage of Canada. Very possibly the courts might sustain that view, but I submit that no greater abuse of the provision could possibly be imagined than declaring local works of that kind to be for the general advantage of Canada.

The cautionary measures just quoted remain amazingly timely, and I believe that all members of this house should ponder and heed them. Was it not because of the exceptions under section 92, that, in 1954, in the case of the attorney general Ontario *v.* Winner—a case that was referred to this afternoon—was it

[Mr. Dorion.]

not because of those exceptions that the privy council decided that interprovincial road transport is not under provincial jurisdiction and is entirely under federal authority?

They are exceptions that the federal legislator should resort to only with extreme caution and circumspection if he genuinely wants to safeguard the federative character of our constitution and, above all, if he really wants to preserve and to foster peace and harmony between the Ottawa government and the provincial governments, and between the various schools of thought which characterize the people of Canada.

Mr. Habel: Mr. Chairman, may I say that I have been most interested in the remarks of the hon. member who has just spoken. It was certainly a masterly speech from a constitutional point of view. As an expert on the Canadian constitution, the hon. member for Bellechasse (Mr. Dorion) has said all that needs be said to explain and justify the vote of the Conservative members from Quebec on this resolution.

Coming back now to the resolution itself, I must say I am a bit disappointed that, on the occasion of this amendment to the Trans-Canada Highway Act, the minister failed to give greater consideration—notwithstanding the views of my friend the hon. member for Port Arthur (Mr. Fisher)—to the construction of a second trans-Canada highway.

I think the house will be interested to know that there is now, in Canada, an essentially trans-Canadian highway. I refer to the road linking Manitoba with Port Arthur and Fort William, and then running through to Longlac, Hearst, Cochrane, North Bay, and from there to either Toronto or Montreal.

(Text):

Progress reported.

THE ROYAL ASSENT

A message was delivered by Major C. R. Lamoureux, Gentleman Usher of the Black Rod, as follows:

Mr. Speaker, the Honourable the Deputy Governor General desires the immediate attendance of this honourable house in the chamber of the honourable the Senate.

Accordingly, Mr. Speaker with the house went up to the Senate Chamber.

And being returned: