

Railway Rights-of-Way

ask for unanimous consent when we call motion No. 13 in the name of the hon. member for Okanagan Boundary (Mr. Whittaker), so that everyone will be protected. Is there unanimous consent?

Some hon. Members: Agreed.

[English]

Mr. Deputy Speaker: Is this agreed?

Some hon. Members: Agreed.

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RAILWAY ACT**SUGGESTED REVERSION TO CROWN OF RAILWAY RIGHTS-OF-WAY**

Mr. G. H. Whittaker (Okanagan Boundary) moved:

That, in the opinion of this House, the government should consider the advisability of amending section 88 of the *Railway Act* to provide for the reversion to the Crown of railway rights-of-way, originally obtained as government subsidies, upon their ceasing to be used for railway purposes pursuant to sections 106, 119 or 254 of that Act.

He said: Mr. Speaker, I am pleased to have the opportunity of presenting my private members' motion, which states:

That, in the opinion of this House, the government should consider the advisability of amending section 88 of the *Railway Act* to provide for the reversion to the Crown of railway rights-of-way, originally obtained as government subsidies, upon their ceasing to be used for railway purposes pursuant to sections 106, 119 or 254 of that Act.

I first became interested in railway abandonment when the CPR made an application some two years ago to the Canadian Transport Commission to abandon a large portion of what is known as the Kettle Valley Railway in my riding. This railway has for many years served as a second rail corridor across British Columbia. Its use has been abandoned for some years now. Rail traffic in British Columbia from east to west has been concentrated on what is known as the main line, and both the CPR and the CNR use a similar route for much of the traffic.

If one looks at a map of British Columbia and studies the very limited corridor being used today for rail traffic, he will quickly see it is very vulnerable in many aspects. This may be all right as long as we have the same road links in existence today. However, road use over the years will be dependent on the same type of energy used today, namely, fossil fuels. Rail lines can be reverted to the use of coal or electric energy that can be generated from other sources than fossil fuels.

I became more interested in rail line abandonment when I realized that at some time in the future, maybe not in my lifetime but certainly in the lifetime of my children and grandchildren, we could very well have to return to rail type transportation. I believe the corridors that have been used for railways are necessary for future transportation in Canada. I come to believe this even more when I look at what could happen in a city such as Penticton, B. C., if the railways are

[Mr. Deputy Speaker.]

allowed to abandon their responsibilities and sell off the real estate in these corridors.

It is for these reasons I asked questions of the chairman of the Canadian Transportation Commission, Mr. Edgar Benson. The CTC, under Mr. Benson, decides whether rail lines should be abandoned. I asked what would happen to the rights-of-way when abandonment was allowed, during a meeting of the Committee on Transport and Communications, and his answer was as follows:

As I understand the situation, once we rule that a branch line or spur line can be abandoned, we have no control over the land per se, but the railway may deal with it as it may see fit. Sometimes when the railway makes application for abandonment, some one will have indicated to them that they would like to use the land for a specific use and the railway will undertake to make land available for that specific use.

I asked in addition why the Canadian Transportation Commission could not make it a condition that the land revert to the Crown on abandonment, and Mr. Benson's answer was as follows:

You would have to put that into the Railway Act so we would have the authority to do it.

I also questioned the Minister of Transport (Mr. Lang) on this and received similar answers.

● (1612)

In order to pinpoint the situation, I decided to draw up a private member's bill, which I put on the order paper last session. I resubmitted it this session, and it stands on the order paper as Bill C-222. As well, I submitted the resolution we are debating today. It was listed as No. 13, and by some stroke of luck we are debating it now, ahead of so many others.

By another stroke of luck, the Hall Commission report was laid on the table. I was pleased to see that Mr. Justice Hall, in the Hall Commission report on grain handling and railways in western Canada, came to a similar conclusion as far as rail abandonment is concerned.

I should like to refer to pages 104 and 105 of the Hall Commission report, which reads as follows:

Upon abandonment, the roadbed, that part of the property abandoned, represented by land—vested in the provincial Crown for disposition as may be mutually agreed to between the relevant province and municipal authority, the CNR or CPR, whatever the case may be, have entitlement to recover and remove with one exception, such of the improvements to the property, rail, ties, other track material, ballast etc. as may in their judgment be warranted, culverts, the removal of which might alter established draining patterns or have adverse effects, would constitute the sole item of improvements to be left in place by the Prairie Rail Authority.

We anticipate some objection that the property disposition formula we have outlined involves some element of expropriation of railway property without compensation to the railway company. This cannot be a valid objection.

Under sections 106 and 259 of the Railway Act, the railways have a legal obligation to maintain service on all lines until abandonment approval is given. In the case of grain related branch lines, the railways ask to be relieved of these obligations taking the position which we do not agree that they are operating these uneconomic lines at a great loss, even when given the branch line subsidies to which we have referred.

In our view, the railways cannot have it both ways. They cannot secure relief from their financial burdens, as we propose and yet retain an undiluted title to the property "in toto", particularly where as we also propose many elements of