

*Railway Act*

Renfrew know that one of our faint hopes lies in the growth of the tourist industry. We do not have the ready access to the area we should have to make that possible. When the railways are removed, there is just one other means of access that no longer exists which would help us to develop the tourist industry.

Surely, at the very least, it should be a relevant issue before the board of transport commissioners, whether or not the removal of the railway will impair the future economic growth of the area. To the best of my knowledge, this is not a pertinent question and this parliament must be held responsible for that. If these issues are not relevant in these hearings for abandonment, then the ultimate responsibility rests in this parliament which makes the laws governing the operation of the board of transport commissioners.

I suggested, Mr. Speaker, that this entire problem of railway abandonment should be given another look to ensure that these powerful concerns which in the past have made great profits on these lines should not be allowed to abandon them at the first signs of the end of the easy money. The railways should be made to sincerely attempt to make these lines pay. I recall very distinctly that at one of these hearings where we were striving on behalf of the local municipalities to have the line kept open, a witness on behalf of the railway was asked, "what have you done to make your service attractive so the people will use it, so that you would not be coming here with a crying towel trying to abandon this line?" We also asked whether they had advertised their service which, peculiarly enough, is something that is very necessary in modern business. We were given this answer. "We do not have to advertise; everybody knows where the station is." This answer illustrates how efficient, how up to date the railways are. This indicates how concerned they are about seeing to it that these marginal lines make a profit so that they can be maintained to serve the areas they are supposed to serve.

No, Mr. Speaker, it is my firm belief that the railways do not wish to make any attempt to maintain lines, except in those areas where the profits are lush and easy. If the maintenance of the line is going to be difficult, if it is going to take imaginative management, if it is going to take the kind of business acumen that every little businessman has to have to survive today, then the railways say, "it is too tough; we want to pull out". Let somebody else do it. While this bill goes some distance towards making the railways fulfil their responsibilities to

the people they are abandoning, it should go a great deal farther. At the very least, if the railways pull out, the entire line and the resources, mineral and otherwise below it, should be returned to the public domain. Then, let us see how many lines the railways will want to abandon.

**Mr. G. H. Aiken (Parry Sound-Muskoka):** I only want to say a few words in connection with this bill, Mr. Speaker, and to move an amendment at the conclusion of my remarks. The hon. member for Middlesex West (Mr. Thomas) has raised a very important matter which I believe is going to become more and more of a problem as time goes on. The railways have apparently come to the conclusion that they must abandon certain lines that are not paying. We have to face the probability and possibility that in the future this problem will become even more acute than it is now. The hon. member for Rosedale (Mr. Macdonald) raised a matter that merits very serious consideration. If we can assume that he has indicated the viewpoint of the government, then there is some question about the validity of this type of legislation. We ought to have this question of validity investigated.

This bill has been before the house on other occasions, and will probably be before the house on future occasions. I hope that each time it comes up the question of its validity will not cloud the issue of the appropriateness of the legislation. One point I should like to raise in connection with validity. There is a very well known maxim in common law relative to highways which is to the effect, once a highway always a highway. I would think this maxim could apply equally to railroads. It might very well be that if the Supreme Court of Canada had to consider whether or not this particular maxim would apply to railway land, under these circumstances it would come to the conclusion that the railway is and remains a federal railway, and within the legislative competence of the parliament of Canada.

For these reasons, Mr. Speaker, I would like to move seconded by the hon. member for Rosthern (Mr. Nasserden):

That Bill C-27 be not now read a second time but that the Minister of Justice be directed to refer the subject matter thereof to the Supreme Court of Canada for an opinion on the validity thereof.

I may say that just a few minutes ago I gave a copy of this motion to the Minister of Transport, who is interested in this particular bill.

**The Acting Speaker (Mr. Batten):** Shall the motion carry?

**Mr. D. S. Macdonald (Parliamentary Secretary to Minister of Justice):** Mr. Speaker,