

Railway Act

farm lots into awkward areas. While the railway continues to operate, this inconvenience is ameliorated by properly maintained fences, gates and grade crossings. When abandonment takes place the crossings are torn out, the gates and fences are left in useless shape and the right of way becomes an unrestricted multiplying ground for noxious weed seeds. The New York Central right of way has now been sold en bloc to private speculators who have proved very difficult to contact. The county seed inspector has this year been unable to get action on the weeds. This right of way has become an eyesore, a nuisance and a menace to the community.

For further details of the tribulations and frustrations encountered by the people along this abandoned railway, may I refer hon. members to the debate of February 9, 1962. These difficulties are continuing. No one seems to know or care about cleaning up this mess. Surely the members of this house do not wish this most unsatisfactory experience to be repeated in other parts of the country. Although the difficulties in this New York Central case were not connected with rail-tied investments, grain storage, or alternate transport facilities to the same extent as they might be in other cases of abandonment, these problems of field separation, fencing, drainage and weed control are both irritating and unnecessary.

This parliament has set up a number of planning boards to help avoid confusion and mistakes in our future development. Surely we are justified in giving the most careful consideration to some form of planning and regulation which might help to smooth out the process of railway abandonment.

The Railway Act occupies 203 pages of the Revised Statutes of Canada, 1952. It was passed in its original form when railway construction began, and was intended to protect the interests of all concerned, both under conditions of construction and of operation. It has been amended from time to time to meet changing requirements. Railway abandonment now makes further amendment a prime necessity.

The Railway Act provides for a board of transport commissioners to administer the act. This transport board has authority over all aspects of railway construction and operation. It can grant permission for a company to abandon a railway line but holds itself bound by a judgment re Cairns Brothers, written by chief commissioner Guthrie, November 17, 1936, which rules that the board has no jurisdiction over abandoned rights of way. This judgment was read into *Hansard* for Feb. 9, 1962. Once the rail lines are torn out, the board's jurisdiction over a right of way ends. The board has no right to enforce conditions

[Mr. Thomas.]

for abandonment. This bill, as previously stated, aims to provide the board of transport commissioners with both the authority and the responsibility for setting forth the conditions under which any railway abandonment may take place.

I suggest that one of the conditions for abandonment should be the appointment of a planning board representative of the various interests which will be affected. Such a board should have on it representatives of the railway company, labour unions, agriculture and the municipalities concerned. The board should have the responsibility of recommending to the transport board the conditions under which abandonment could be permitted. Its recommendations should concern the best disposition of the right of way in the public interest, the disposition of the workers involved, consideration of compensation for rail-tied investment, and any other matters of vital public concern.

Where the right of way separates farm lands, the right of way should be restored wherever practicable to the farm lot from which the land was originally taken. This would eliminate the nuisance of having parts of farms separated from each other. It would permit the farmer in each case to reincorporate the right of way to the best possible advantage in his farm, and to control drainage and the weed menace. Larger areas of property, such as those in town sites, should be disposed of in the best public interest after consultation with the municipalities concerned.

It is proposed that whenever an application for abandonment is granted by the transport board, a waiting period should be allowed in which such a representative planning board as suggested could prepare a plan for abandonment. Provision might be made in such a plan for settlement of disputes by arbitration. The services of municipal and provincial planning boards should be used where available. Conservation authorities at various levels of government should also be consulted. These unnecessary railway lines have served their day and generation well. There is no sound reason why we should now abandon them in such a way as to leave ghost towns, broken fortunes and unsightly scars across the face of our country.

I recommend this bill for hon. members' consideration and for the consideration of the government.

Mr. J. J. Greene (Renfrew South): Mr. Speaker, may I, first of all, commend the sponsor of the bill before us. I think this measure is certainly a step in the right direction. The railways themselves, as well as the parliament which aids and abets them in making these abandonments possible, sometimes forget the history of railroading in this