

*Transportation*

that the Dominion has not legislated in relation to a connecting undertaking. A province is precluded in any event from interfering with it.

Provincial legislation is ultra vires where it prohibits the operator of a particular connecting undertaking, namely an international and interprovincial bus line, from using provincial highways except as a means of passage from another country to another province, as where it purports to prohibit it from bringing passengers into the province or carrying passengers outside the province or between points within the province. Such legislation cannot be justified as traffic regulation.

Where an undertaking is in pith and substance interprovincial, and in its operations embraces, in the same way, both interprovincial and intraprovincial journeys, it is wrong to say that its intraprovincial operations are incidental and hence subject to provincial control. If the undertaking is in fact one and indivisible, then merely because it might have been operated differently by limiting its activities to activities within or without the province, does not make it any less an interconnecting undertaking. Hence, its intraprovincial operations cannot be severed for the purpose of committing them to provincial legislative jurisdiction.

Of course, a carrier who is substantially an internal carrier cannot put himself outside of provincial jurisdiction by starting his activities a few miles over the border. Such a subterfuge will not avail.

*Quare*, whether the operator of the connecting bus line in this case could initiate a purely provincial bus service even though it was under the aegis of and managed by his present organization!

*[Translation]*

Those are very important and relevant provisions which, in my humble opinion, should be put on record for further reference during this debate or even during the discussions to be held or the studies to be made by the parliamentary committee.

As I was saying earlier, under the constitution, the minister and the federal government are empowered to act with regard to interprovincial, extra-provincial or international transport.

But it has happened, and this fact should be taken into account here in Ottawa, that for almost a century all legislation and even regulations in the field of interprovincial transport have been left to the provinces.

Indeed, the legislation recognizing this practice is included in the federal statutes themselves. With regard to these precedents, I should particularly like to point out to this house the federal legislation concerning extra-provincial transportation by motor vehicle, which is included in the Revised Statutes of Canada, chapter 59. This legislation was passed on June 26, 1954, therefore following the judgment given in February 1954 in a

case heard by the Privy Council which recognized the constitutional authority of the central government. Here, however, in practice the central government of Canada referred the problem of interprovincial transport to the provinces, probably because transportation of that sort was not very important ten years ago on account of the lack of organization in the interprovincial system and because the Trans-Canada highway had not yet been built.

Now, this has always been done and is still being done, and that federal act of June 26, 1954, admitted it in its terms and provisions.

I want to remind the house in particular of subsection 2 of section 3:

The provincial transport board in each province can, at its discretion, deliver to a person a licence to operate an extra-provincial enterprise by entering the province or passing through it under the same conditions and in the same way as if the extra-provincial enterprise operated there was a local enterprise.

And also in section 4 of that same bill:

4. When, in a province, the tariffs and rates to be set by a local carrier for local transport are determined or regulated by the provincial transport board, the tariffs and rates to be set by a federal carrier for extra-provincial transport in that province can, at the discretion of the provincial transport board, be determined and regulated by the provincial transport board in the same way and under the same conditions as if extra-provincial transport in that province were local transport.

Therefore, the texts of that act clearly show that the federal government has until today delegated to the province the power to legislate and regulate in the field of trucking.

And now, in the present bill setting up that federal transport commission, the federal government wants to recover its authority on interprovincial trucking and its administration as well.

The Department of Transport created in 1964, when considering that matter, a group of officials to study trucking in particular. It would seem that the federal government decided also to intervene in the field of trucking for three main reasons. Since 1954, interprovincial trucking has greatly increased thanks to the construction of the Trans-Canada highway, so that it has become truly competitive with regard to the railways. Trucking is becoming some kind of economic and commercial giant in the field of interprovincial transport, and there is no doubt it can harm the railways which are facing