CHAPTER IV
THE BASIS FOR DOMINION-PROVINCIAL CO-OPERATION

Neither the British nor the United States experience in dealing with modern transportation problems can afford a clear guide for Canadian action. In Great Britain the problem is simplified by the existence of a single jurisdiction, though the competition between road and rail is intensified by the short distances which are involved. In the United States the power of the Federal Government to deal with interstate commerce gives it a degree of control over road traffic which has no counterpart in Canada where interprovincial traffic is a negligible proportion of the total traffic on the roads; while the United States government may almost be said to have bought a measure of control over road development by its system of conditional grants for road construction.

In Canada it may be reasonably assumed that, in future, the Dominion will be charged with the responsibility for seeing that the country has adequate railway services while the provinces will continue to build highways suitable for motor traffic in keeping with the public demand, which is likely to be insistent. The pressures for the construction of highways will be so powerful that it is likely that they will be checked only by the financial limitations of the provinces. Demands may be expected from motorists for highways comparable to those which they find in the United States. The desire to encourage motor tourists to travel in Canada will be a powerful inducement to this end.1 Areas now served by rural roads will press for paved highways. Main highways will be constantly improved to take care of increasing passenger and freight traffic. A conscious intention to facilitate the movement of freight by motor vehicles for developmental and social reasons must now be counted one of the considerations affecting provincial highway construction.2

The problem before Canada is, therefore, how best to establish and maintain co-operation between the Dominion, in respect of its railway services, and the provinces, in respect of their road construction. Effective co-operation is of immense importance because, as has been shown in an earlier chapter, numerous important interests will be vitally affected by whatever course of action Canadian governments may take. To allow the railways to adjust themselves freely to the new situation would greatly benefit some classes of shippers and greatly harm others. To encourage the restriction of railway services in cases in which other forms of transportation can provide a more efficient service would throw railway employees out of work and (if branch lines were closed down) would prejudice some shippers for whom the other transportation services are not satisfactory. To subsidize the railways, directly or indirectly, in order to enable them to maintain the existing rate structure or existing services would impose a heavy burden on the taxpayer.

POSSIBLE METHODS OF CO-OPERATION

Logically there are two methods whereby the new forms of transportation might be controlled and co-ordinated with the old: the provinces might adopt substantially uniform policies with respect to the control of highway carriers, and co-ordinate this control with Dominion control over railways; or jurisdiction to control highway carriers might be transferred to the Dominion.

The first method, that of uniform provincial regulation, was recommended by the Duff Commission in 1932.3 In the Dominion-Provincial Conference of 1935 (December 9-13), in which all the provinces were represented by their governments, a number of resolutions were adopted in which the desirability of uniform regulation by the provinces was recognized in principle.4 One of these resolutions reads: “That a licence should only be granted for the operation of vehicles for the transportation of passengers or freight for hire where it can be proved to the satisfaction of the licensing authorities that the service proposed is a public necessity

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1 In 1937 tourist expenditures in Ontario, according to official estimates by the provincial authorities, ran to $117,750,000. Report of the Ontario Royal Commission on Transportation, 1933, p. 1.
2 In many instances motor trucks have reduced the cost of freight transportation; have stimulated business, and by giving frequent and expeditious service to outlying areas have assisted in the decentralization of industry and the commendable building up of prosperous small communities distant from the large cities. Ibid, p. 1.
4 Record of Proceedings, p. 31.
and convenience." There is much to suggest that there is a common recognition by the provinces of the need for control both of rates and services and general agreement as to the form the control should take. A questionnaire was submitted on behalf of the Commission to the provinces and from the answers received it appears that there is developing in each province systems of control, which impose rates, require adherence by the trucking and bus companies to schedules of pay and hours of labour for employees, and limit by licences and other means the number of vehicles engaged in transportation to what are considered to be the necessities of the area served. There is much to suggest that there is in existence a basis upon which a Dominion-wide system of regulation might be built.6

Yet it must be recognized that regulation of one form of transport—highway carriers—by one authority (the province), and of other forms of transport by the other authority (the Dominion) offers little hope of preventing duplication of carrier facilities as between highways and railways, or of protecting the railways from undue or unfair competition by highway carriers. The fact remains that the interests of the Dominion Government as the trustees of the national interest in railway transportation, and of provincial governments as the trustees of the provincial interest in highway investment, are to some extent competitive, and there is no assurance that the regulatory authorities of the Dominion and the provinces will co-operate or respect each other’s interests.

The alternative is a common regulatory authority which can take under its purview all forms of public carrier service, including that of highways. It would not, however, seem essential that all highway transportation should come under this common authority. It would be impossible for a single authority to regulate private vehicles, throughout Canada, nor would it seem essential for a central authority to regulate all aspects of highway carrier service. It would seem sufficient if the common authority over transportation had jurisdiction over motor carriers merely to the extent of granting franchises to operate, and of regulating the service performed for the shipper and the rates charged. Such jurisdiction need not be as extensive as that at present over Dominion railways. It need not extend to such matters as safety appliances; wages, hours and efficiency of operators; speeds, loads, etc. Such matters would be better left to the provinces in view of the necessity for their regulation and control of privately-owned motor vehicles. If this alternative were adopted it would involve the transfer of some jurisdiction to the Dominion.

If our recommendation elsewhere providing for a method of delegation of legislative power by the Dominion to a province, or vice versa, becomes effective, it would be legally possible for the provinces, individually or collectively, to delegate the necessary authority to regulate motor carriers to the Dominion which could then exercise this authority through the Board of Transport Commissioners.

Another method for reaching the same result would be to amend the British North America Act so as to confer on the Dominion concurrent jurisdiction over motor carriers either restricted to the right to grant franchises and regulate rates and services, or unrestricted. This would be similar to the jurisdiction now exercised over agriculture and immigration under section 95 of the British North America Act. By such a device, provincial regulation would be effective until superseded by Dominion legislation. Moreover, the Dominion would scarcely in practice occupy the whole field of regulation, even if it had the power, but legislation could be adopted to meet different needs in different areas, or as experience warranted.

A third possible means of achieving a measure of unified control should also be noted. It is possible that the Dominion could by reference declare designated highways works for the general advantage of Canada, or of two or more provinces, as it did in the case of most railways and grain elevators. It could then use existing machinery (the Board of Transport Commissioners) to regulate motor carriers to a much wider extent than we have suggested above as desirable. But the political repercussions likely to follow the exercise of the declaratory power

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6 All the provinces, except Quebec, replied to the questionnaire and the answers suggest strongly that the statutory means to regulate and control motor transportation are available now. For example, all the provinces have a special motor act. In seven of the provinces covered by the answers to the questionnaire all public carriers require special permits (Prince Edward Island is the exception). The outline of regulation is visible in the discretionary power given to licensing authorities. In New Brunswick the licensing authority is to have regard for the “effect on other kinds of transportation”. In Manitoba, “public convenience and necessity” must be considered. In British Columbia regard must be had for routes already served, for necessity of the proposed service, for the public interest, and so on. Quebec has corresponding provisions with ample machinery for control. There are, likewise, signs of regulation to maintain specific rate schedules and the trend in this direction will become more marked if the recommendations of the Chevrier Commission in Ontario are implemented. This Commission has recommended the creation of an Ontario Transport Board with power over highway traffic similar to that exercised over other kinds of transport by the Dominion Transport Commission. It is not suggested that the provinces likewise have continuously regulated highway traffic in the sense that railway traffic is regulated. But the trend of provincial legislation and administration is in that direction and may gain momentum as the transportation problem comes to be more clearly appreciated.
in this way make its use highly undesirable except after agreement with the province, or provinces, concerned.

Taxation of Motor Carriers.—One of the possible methods of regulating competition (or of establishing fair competitive conditions) between railways and motor carriers consists in taxation. A uniform policy in the various provinces and co-operation between the Dominion and the provinces are important if taxation is to be used for regulatory purposes, as an examination of possible policies will show.

To-day it is probable that no province is taxing motor carriers or private trucks the full share of the cost of their operation to the province. It should be noted that truck traffic requires much heavier road construction and causes greater wear and tear on the roads than private motor cars. Yet all provinces by means of a flat-rate gasoline tax compel private motor car owners in effect to subsidize buses and trucks. The taxation which it is appropriate that each province should impose on motor carriers by way of licence fees might be worked out by a research body on the basis of engineering tests of the cost of wear and tear on roads by various types of vehicle. If the provinces agreed to impose this taxation the effect would be to protect railways (as they should be protected) from unfair competition by truck traffic. Tax rates on trucks and buses more nearly equal to the cost to the province would probably increase provincial revenues substantially. They would at the same time increase trucking costs and thereby improve the competitive position of the railways. Combined with heavier taxation on truck operation should go adequate policing to ensure observance of regulations for loading, speeds, safety appliances, and efficiency of operators of trucks, and this would also tend to increase truck operating costs. These matters lie almost wholly within provincial jurisdiction, though it is possible that the Dominion might exercise considerable influence on the provinces by establishing effective regulation over motor carriers and private trucks entering into interprovincial or foreign trade.

Control of New Investment.—There is also the important problem of controlling new investment in transportation in order to prevent over-investment and duplication such as have occurred in the case of railways. New capital investment in transportation is likely to occur primarily in highway, air and water transport, but further railway developments may occur, especially in the opening up of new areas. In view of the fact that the Dominion already has jurisdiction over all but a few railways and in view of the enormous Dominion investment in railways and of its proposed assumption of provincial debt incurred for railway construction, the Commission recommends that the Dominion should have exclusive jurisdiction over all railways and that no further railways should be chartered except by the Parliament of Canada. Subsequent proposals will indicate that Parliament would have the benefit of advice by a competent and disinterested technical body.

New investment in highways is, however, much more difficult to control. As we have pointed out earlier, the pressure for new or improved highways is likely to be continuous, and provincial governments are likely to be compelled by public opinion to improve and increase highway facilities. One obvious limit is, of course, the funds available, but our financial proposals elsewhere will, if carried out, enable some provinces to expand their highways more easily than they can at present. The practical problem is whether or not the Dominion should attempt to influence the road construction of the provinces either by “buying control” through conditional subsidies as the United States has done or by attaching conditions if it has occasion to encourage highway construction as part of a program designed to stimulate employment. A healthier and in the long run more potent means of influence seems to the Commission to lie in encouraging the use of systematic research and far-sighted planning which would aim at co-ordinating all forms of transportation service in a comprehensive national system.

Planning and Research.—This conclusion points to the necessity of continuous and comprehensive planning of the whole field of transportation. United States experience, as has been indicated, strongly supports the case for planning and research. Of course, planning of transportation is not a new venture in Canada. Indeed, all federal or provincial aid to railways, and all provincial highway construction are ventures in planning. But in the past, planning of transportation has been piecemeal in character and has been concerned with only one or a few aspects of the problem. What is needed to-day is planning taking account of all forms of transportation, continuous, not intermittent, and concerned with the co-ordination of existing services (especially of rail and road traffic) as well as with the expansion of these services.

* With an exception of railways which are purely local in character, e.g., street railways.
The Dominion, as the government with the biggest investment in transportation and the government alone able to consider the whole field as a single problem, should take the lead in establishing a planning organization, while the provinces should co-operate by availing themselves of its services. It is recommended that a planning board either responsible to the Minister of Transport or independent of the Government should be set up. It should be composed mainly of experts, including both engineers and economists. If the provinces, as well as the Dominion, made use of its services it might develop into a body which would co-ordinate on a voluntary basis the future highway, railway, waterway and air programs in Canada, as well as lending technical assistance and making investigations when requested to do so. If Plan I were adopted, this Board might be called on for a report by the Finance Commission on the merits of transportation projects to be financed by borrowing through the agency of that Commission. It is also suggested that efforts should be made to enlist the co-operation of the provinces in planning transportation and co-ordinating existing services, especially road and rail traffic, and that this might be done by establishing joint planning boards on which the national planning body and provincial highway departments or highway carrier control boards might be represented.7

A further aspect of planning might be for the Dominion to give consideration to the desirability of a complete review of the railway freight rate structure in the light of conditions as changed by motor truck competition and that this might be done by establishing joint planning boards on which the national planning body and provincial highway departments or highway carrier control boards might be represented.7

The systematic and planned co-operation which might result from the activities of the proposed consultative bodies could achieve purposes of high public value. Unnecessary duplication of investment in transportation facilities and equipment could be guarded against, especially in new regions—mining areas, for example—where the service best fitted to the needs of the locality could be agreed upon and supplied. Arrangements providing for all

7 The Duff Commission recommended a similar method, p. 56: "The federal and provincial governments in co-operation should, however, examine this question of the regulation and taxation of road motor vehicles with a view to equalizing the conditions under which road and rail transport is carried on, and to securing uniformity throughout the Dominion. A joint inquiry in which both federal and provincial governments were represented should enable a measure of agreement to be reached upon the general principles which should govern the regulation and taxation of motor vehicles using the public highways. The administration and adaptation from time to time of the agreed principles of road transport might be left to a consultative committee consisting of representatives of the various provincial governments and of the federal government."

the year round services by trucks and buses, combined with effective rate-control would permit the abandonment without resulting public inconvenience of certain short railway branch lines, whose earning power has been permanently destroyed. In some cases services on branch lines might be substantially reduced, in others rail services might be provided only during seasons when the highways were impassable. Under a policy of co-ordinating all forms of transportation, in order that the best service possible may be given to districts at minimum maintenance charges and investment cost, Dominion assistance might well be given in the building of highways where those serve as the sole agency of transportation under an agreed scheme. Requests for recommendation for Dominion assistance for provincial highway construction were made to the Commission but programs of this character on any considerable scale should wait upon the adoption of some kind of joint transportation policies.

Summary.—In its discussion of rail and road transportation the Commission has confined itself to pointing out the immense potential dangers of waste and overlapping in the field of transportation, calling attention to the complexity of the problem and the multiplicity and importance of the legitimate interests affected, citing the experience of Great Britain and the United States with modern transportation problems and drawing what seemed to be the obvious conclusion for Canada, namely that there must be intimate and cordial co-operation between the governments—federal and provincial—which divide the jurisdiction over transportation problems. The precise form which this co-operation should take must depend on the lines on which agreement can be reached, but an essential condition for its success is that there should be available not merely expert advice in crises or emergencies but continuous expert planning which can extend to all the inter-related branches of this peculiarly intricate problem. Throughout the discussion the Commission has endeavoured to give first place to the interests of the public, whether as shippers, or consumers, or as heavily burdened taxpayers, and to assume that the Dominion and provincial governments will feel bound, in the long run, to treat the general interest as paramount.

7 The Government of New Brunswick in its brief, p. 46: "In view of the fact that the Province of New Brunswick has provided highways of such a nature as to be necessary in time of peace and for the protection of the nation in time of War and has incurred a relatively large amount of public indebtedness in their construction, it seems only fair that the Dominion should assume part of this burden. We trust that the Commission may be able to recommend to the government of Canada that some concession be made to the Province in respect of highway construction."