

public interests involved are of sufficient importance to warrant it, no order made by the Arbitral Tribunal shall be operative without the concurrence of the Chief Commissioner and his formal written assent.

The powers of the Arbitral Tribunal shall be capable of being invoked by either railway or by the Dominion or any provincial Government. Subject to the recommendations of this report, all matters of procedure before the Arbitral Tribunal should be governed by regulations made by the Chief Commissioner of the Board of Railway Commissioners with the approval of the Governor in Council.

In the event of conflict between the Board of Railway Commissioners and the Arbitral Tribunal, it should be made clear that the order or decision of the Arbitral Tribunal shall prevail.

X. JURISDICTION OF ARBITRAL TRIBUNAL

215. The Arbitral Tribunal ought not to have jurisdiction to order the construction of extensions and additions to existing lines and facilities, except in such minor matters as connections to give access to existing tracks and terminals which by order of the Arbitral Tribunal or otherwise are used, or are to be used, in common. Subject to the provisions of any statute relating to any particular railway, the Arbitral Tribunal will have full jurisdiction as to measures, plans and arrangements for the joint use of tracks and facilities.

216. It is not intended to define with precision the subject matters to which the jurisdiction of the Arbitral Tribunal shall extend, but without limiting the generality of the words used above, the Arbitral Tribunal shall have jurisdiction in relation to the following matters:—

- (a) Joint use of terminals.
- (b) Running rights and joint use of tracks where there are actual or functional duplications, or where such may be avoided.
- (c) Control and prohibition in respect of the construction of new lines and provision of facilities and additional services where no essential need of the public is involved.
- (d) The joint use of facilities where this would promote economy or permit the elimination of duplicating or unremunerative services or facilities.
- (e) Abandonment of lines, services or facilities.
- (f) Pooling of any part or parts of freight traffic or of passenger traffic.
- (g) Things necessarily incidental to the above enumerated matters.

217. The conditions and terms of any order should be entirely within the discretion of the Arbitral Tribunal.

218. There shall be no appeal to any court in Canada from any decision of the Arbitral Tribunal on any question of law or fact; except as to a question of law if it is one involving a question of jurisdiction, in which case there should be an appeal to the Supreme Court of Canada, by leave of a judge of that court.

219. Subject to the provisions of paragraph 218 hereof, section 44 of the Railway Act shall apply; the first paragraph of section 52 of the same Act shall not apply.

220. Both the Canadian National Railway and the Canadian Pacific Railway are engaged in the operation of express services, each of which is in competition with that of the other. It is the opinion of the Commission that the railways should be owned, but, in the main, they should be operated as if they were privately owned.

221. It is admitted that competition between the two railways has resulted in a great deal of unnecessary capital expenditure and in the loss of a considerable amount of what is actually required.

222. It is the opinion of the Commission that competition should be discontinued, and that the suggested Board of Trustees of the Canadian National Railway and the Board of Directors of the Canadian Pacific Railway should formulate and agree to schemes which will permit of the working in harmony of those ancillary services which are now operated competitively. If this problem is attacked by the two managements with goodwill and the desire to co-operate considerable economies should result from their efforts and without in any way prejudicing the service rendered to the public.

XII. CONCLUSIONS

223. Although our terms of reference are strictly concerned with the problems arising out of the transportation situation in Canada, we cannot but be conscious of the national difficulties, in which the financial position of the publicly-owned railways is a factor of first importance. Indeed, we apprehend that the urgent need of discovering means of reducing the large railway deficits was a primary factor in causing the Government to place upon us our onerous task.

224. In the foregoing report we have outlined a plan which we believe will ensure progressive and co-ordinated development on an economic basis of the railway systems and afford early relief to the Federal treasury by reducing the alarming and increasing deficits and the demands for further capital expenditure in connection with the Canadian National Railway System.

225. Whilst all members of this commission concur in these recommendations which, if carried out in letter and spirit by all concerned (the Government, the Public and the Railways), should effect a considerable measure of relief to the taxpayers of Canada, some members would have preferred a plan which would have established a complete dissociation of the Government of Canada from the responsibilities of competitive railway management or of any direct interest therein.

226. We feel compelled, as a matter of public duty, to strike a serious note of warning to the people of Canada. Unless the country is prepared to adopt the plan we have proposed, or some other equally effective measures, to secure the efficient and economical working of both railway systems and thereby not only reduce the burden on the federal treasury but improve the financial position of the privately-owned railway, then the only courses that would be left would be either to effect savings in national expenditure in other directions, or to add still further to the burdens under which the industries of the country are suffering by the imposition of yet further taxation. Failing the adoption of one or other of these courses, and there are obvious limits to their application, the very stability of the nation's finances and the financial credit of the Canadian Pacific Railway will be threatened, with serious consequences to the people of Canada and to those who have invested their savings in that railway.