

REPLY TO ARGUMENT OFFERED ON BEHALF OF THE GRAND TRUNK RAILWAY COMPANY OF CANADA AND THE GRAND TRUNK PACIFIC RAILWAY COMPANY.

The statement that questions of policy may not be properly brought before His Excellency the Governor-in-Council upon an appeal of this kind is not based on an appreciation of the real situation. As has been intimated in our reply to the Canadian Northern argument, Sir Robert Borden distinctly asked for suggestions that might be regarded as assisting the Government in the determination of its policy. By so doing the Right Honorable the Prime Minister gave abundant justification for representations regarding the course that should be followed in dealing with the railway situation. The effort to confine the issue is so apparent in the arguments from the three companies that we can only express surprise at the inability of counsel to appreciate the significance of Sir Robert Borden's suggestion.

Counsel for the Grand Trunk Railway is at one with the others in complaining that no error in the findings of fact made by the Board has been alleged by the appellants. The objection is insignificant, because it is not necessary to discover errors in findings of fact in order to take exception to the judgment. Nor is it necessary to prove that the proposed rates would be unjust and unreasonable as far as the Grand Trunk Railway is concerned. We realize that rates must apply to all the companies uniformly, and at the same time we reject the "lame-duck" theory. We base our contentions on the fact that additional impositions by the Canadian Pacific Railway would constitute an unjust and unreasonable proceeding, apart from the indirect effect they would have on the fortunes of the other companies.

The Grand Trunk Railway rejects our suggestion that the change in the form of application made by the Board altered the whole aspect of the case, as far as the attitude of the public towards it was concerned. We insist that the change should not have been made without paying due regard to the possibility of the subject being viewed differently by the various bodies whose opinions had been obtained at the hearings.

The unwillingness to accept the law of averages as the basis for calculations of revenues and expenditures is merely an indication that the companies would find themselves in an inconvenient position with respect to this application. Is it to be contended that railway rates will follow fluctuations in cost of labor and material, or in net earnings? *Why, then, have not the companies reduced their rates whenever their net earnings showed increases?*

The contention that the Inter-State Commerce Commission denied the application of the railroad in the United States for