

Parliamentary Report of Union of Canadian Municipalities

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Partial failure; some success! These four words, from a municipal standpoint, state concisely the Parliamentary situation in 1918. Partial failure by reason of the fact that after a four years' struggle the revision and consolidation of the Railway Act is still uncompleted. Success, in that municipal interests were fully protected with regard to all private bill legislation.

The story of the Railway Bill is an interesting one. Last year, it will be recalled, the draft bill was very carefully considered by a Committee of the House of Commons, at which the municipalities, the railway companies, and all other interests affected were afforded the fullest opportunity to be heard. At several sittings of the Committee the Union of Canadian Municipalities was represented by the honorary secretary treasurer, Mr. Lighthall. As the bill left the House of Commons it was in excellent shape, but before the Railway Committee of the Upper House a strong lobby succeeded in emasculating the measure, and at the time of writing my report of last year municipal rights, which were fully protected by the Commons' bill, were in jeopardy. As everyone interested knows, the measure failed to pass the Senate before prorogation, and, therefore, had to stand over until this year.

As it was generally felt that the session of Parliament of 1918 would be short, the Railway Bill was introduced into the Senate this year, and in place of referring it to the Railway Committee the Senators decided to consider the provisions of the measure in Committee of the Whole. This, of course, gave no opportunity to municipalities or other interests to be heard. However, at the outset the bill was satisfactory from a municipal standpoint, as it was introduced into the Senate in the same form as that in which it left the Commons the previous session.

The principal discussion in the Senate centered around Sec. 374, the principle of which while applicable to Toronto, indirectly affects all municipalities. The clause deals with the right of private companies to put lines or wires along or across highways. By its arrangement with the city of Toronto, the Toronto Electric Light Company is required to sell its assets to the city on the termination of its contract in 1919. If the city does not exercise its option the Company may continue business. The Toronto and Niagara Power Company, which is practically owned by the same individuals that control the Light Company, appears to have authority, under Dominion legislation, to erect poles on the streets of Toronto for purposes of its own business, without the city's consent. The city believes that the Power Company is planning to take possession of the Light Company, and then declare that it has no expiring franchise and is under no compulsion to sell out. It was to circumvent such action and to enunciate the principle that every municipality should have the right to control its own streets—for this was the crux of the situation—that the municipal protest was made. The clause was keenly debated for some days and finally amended, to read as follows:

"374 (1) In this section,—

(a) "Company" means any person or company having legislative authority from the Parliament of Canada to acquire, construct, operate or maintain works, machinery, plant, lines, poles, tunnels, conduits, or other means for receiving generating, storing, transmitting distributing or supplying electricity or other power or energy but does not include a railway company, or a telegraph company or telephone company.

(b) "Municipality" means the municipal council or other authority having jurisdiction over the highways, squares or public places of a city, town, village or township, or over the highway, square or public place concerned.

(2) The Company shall not, except as in this section provided, acquire, construct, maintain or operate any works, machinery, plant, line, pole, tunnel, conduit or other device upon, along, across or under any highway, square or other public place within the limits of any city town, village or township, without the consent of the municipality.

(3) If the company cannot obtain the consent of the municipality or cannot obtain such consent otherwise than subject to conditions not acceptable to the company, the company may apply to the Board for leave to exercise its power upon such highways, square or public place; and all the provisions of section three hundred and seventy-three of this Act with respect to the powers and rights of

any company covered by that section, and with respect to proceedings where the company cannot obtain the consent of the municipality, shall, subject to the provisions of this section, apply to the company and to any application to the Board and to all proceedings thereon, and to the powers of the Board in the premises.

(4) Nothing contained in this section shall be deemed to authorize the company to acquire, construct, maintain or operate any distribution system or to distribute light, heat, power or electricity in any city, town, village or township; or to erect, put or place in, over, along or under any highway or public place in any city, town, village or township any works, machinery, plant, pole, tunnel, conduits, or other device for the purpose of such distribution without the company first obtaining consent therefor by a by-law of the municipality.

(5) Any specific powers inconsistent with the provisions of this section and conferred on any company by any Special or other Act or authority of the Parliament of Canada or of any province shall not be affected by the provisions of this section, but if any municipality complain to the Board that any company whether incorporated by Special or other Act or authority of the Parliament of Canada is exercising its powers oppressively or in bad faith the Board may hear such complaint and if it sees fit supervise the exercise of such powers.

"Provided always that whenever any company incorporated by Special Act of the Parliament of Canada acquires the assets of a company operating within a municipality which said municipality has the right by agreement to purchase any of the assets of such company, then and in every such case the municipality may enforce the rights under such agreement as fully as if such purchase had not been made and may enforce against such purchaser the provisions of such agreement as if it were the original party entering into such agreement with the municipality."

The combination amendment of Senators W. B. Ross, Beique, and Lynch-Staunton, quoted above, which was spoken of as a "compromise," was not satisfactory to Senator A. Claude Macdonell, of Toronto, who put up a gallant fight for the municipalities. His contention was that the amendment did not fully protect municipal rights. It is significant that the "power" representatives, who were constantly in attendance at the sittings of the Senate, hailed the amendment as "satisfactory," which in itself should cause the municipalities to look upon it with suspicion. As the Railway Bill has gone over until next session it will devolve upon the Union to make another effort next year to secure the redrafting of the clause in such a way that not only the interests of the city of Toronto will be protected, but those of every other municipality. A strong pronouncement upon this question at the next annual convention is urged.

Among the amendments offered by the U. C. M., as agreed upon at the Annual Meeting of the Executive Committee held at Ottawa, on April 10th, was one to the Interpretation Clause (section 2) regarding "easements." The covering letter, copy of which was sent to every Senator and Member, explains the point:

Re Railway Act.

"Montreal, April 20, 1918.

"The Union of Canadian Municipalities, especially its larger cities and towns, are very much exercised over the recent change in section 2, sub-section 15, whereby easements and servitudes are placed under the definition of "lands." This will introduce great difficulty in cities, towns, and villages, by giving the right, practically, to light and power companies to put their wires over and under private property. This is all right in the country, but will very much depreciate city and town property in any case. For this reason, easements and servitudes were originally omitted from the Act, but now are thoughtlessly put back again.

"This matter was the subject of a resolution of the executive of the Union of Canadian Municipalities on the 10th April, instant, and they would ask your

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