

Freight Rates Reduction Act

resulting reductions in their revenues during the 12 months' period that the original act covered. The act was extended in 1960 (chapter 42) for nine months, and an additional \$15,000,000 was provided. It was extended again in 1961 (chapter 29) for 12 months, with an additional \$20,000,000.

The first reduction was made on August 1, 1959, when the 17 per cent increase in the rates affected was reduced to 10 per cent. A second reduction was made in May, 1960, when the 10 per cent was reduced to 8 per cent.

The last extension of the statute expired on April 30, 1962. It was the intention of the government at the last session of parliament to extend the act for a further period not exceeding 12 months from April 30, 1962 and, pursuant thereto, a resolution dated March 29, 1962 was introduced in the house. However, due to the dissolution of parliament on April 18 it was not possible to take action on that resolution.

The government recognized that under existing statutes the railway companies could, after April 30, increase the reduced rates to the 17 per cent level that existed prior to the enactment of the Freight Rates Reduction Act, but the government was of the view that such an increase at that time, pending final consideration of the report of the royal commission on transportation, would be contrary to the public interest, and it therefore proposed to the railways that they continue the reduced rates. The government, on its part, undertook to ask parliament to enact legislation to compensate the companies to the extent that they would have been entitled had the Freight Rates Reduction Act been extended from April 30, 1962. The result was that the companies have continued the reduced rates since April 30.

The government considers that it would be in the public interest to continue the benefits of the Freight Rates Reduction Act for a further period pending such legislation as may flow from final consideration of the report of the royal commission on transportation. The proposed amendment is for that purpose.

Mr. Chevrier: The resolution introduced by the Minister of Transport has three points in mind. The first is to amend the Freight Rates Reduction Act. The next is to extend for a period of not more than 12 months the provisions of the act. The third is to increase the authorized expenditure under the act by an additional \$20 million.

My submission to you, Mr. Chairman, is that this is not an extension of the act because, as the minister himself has said, the act has expired. This is, if anything, a revival of the act. The act expired on April 30, 1962 and

was not brought before parliament again. I think it is important first of all that we should make the distinction, because the government has had the opportunity both before the expiry of the act and since this house has been in session—and the session began more than two months ago—to bring legislation of this character before us.

I am sorry to have to tell the minister that because of the inaction of the government and its failure to introduce this bill in March or April of 1962 to further extend the Freight Rates Reduction Act, which had previously been extended on several occasions, the right of the shippers to the 8 per cent reduction in freight rates, and the subsidy of \$20 million per annum to pay the railways for making that reduction in their rates, both expired on April 30, 1962.

I rather feel that the minister is not personally responsible for this delay; I am not going to attribute the inaction to him. Nevertheless, as the minister has said, the railway companies from month to month since last April have issued supplements to their freight tariffs reducing the nominal increase in rates to 8 per cent. What is now sought is legislation to require, first, the reduction to continue in effect to April 30, 1963; next, to deem that reduction to have taken effect on April 30, 1962, and, third, to make payments to the railways back to May 1, 1962.

The question which comes to mind immediately is this. What authority did the railways have to receive these payments? My submission to the committee is that the railways had no authority, notwithstanding the agreement they had with the government to make these payments, and that if they are made, if they do continue, they are not only illegal but they are unconstitutional. Since the act expired on April 30, the payments made to the railways are contrary to the law. Payments made under an act which does not exist cannot be anything but illegal in the circumstances.

I should like to pause here for a moment and examine the facts surrounding this resolution. On November 17, 1958, an application made to the board of transport commissioners by the railways to increase their freight rates was granted to the extent of 17 per cent in class and commodity rates, and pursuant to the Railway Act the provincial governments and others made an appeal to the governor in council under section 53 of that act. That appeal was dismissed. On that occasion it was the acting prime minister who made the statement disallowing the appeal, and I should like to read a portion of that