

Suspension of Car Demurrage Rules on Account of Influenza Epidemic.

The Chief Railway Commissioner, Sir Henry Drayton, gave the following judgment Oct. 25:—A letter has been received by the board from the James Shearer Co., Montreal, as follows: "At our yards in Montreal we are practically tied up on account of the epidemic of Spanish influenza, and we find that the Eagle Lumber Co. at St. Jerome, to which we are shipping material to be dressed for us, is in the same predicament and in all probability cars will be under demurrage before we can even start to unload them. As this is a matter entirely beyond our control, we would ask if it is not possible to make special arrangements to have the demurrage charges withheld until the epidemic subsides. We trust you will be able to do something to relieve us, otherwise we shall be heavily penalized by the railways, due to the unavoidable illness of our employees."

The car demurrage rules do not cover a case of this character. While the rules arrived at were largely the result of negotiation and agreement between shippers and companies, a condition such as the present was never contemplated. There is no doubt as to the effect of the present epidemic. The railways themselves are unable to handle freight concurrently. A large number of cars set out for movement cannot be moved, simply because so many of the railway men are suffering from influenza that it is impossible for the railways to move them. This fact is well known and has been recognized by the shipping public.

Precisely the same conditions apply to the employees of industrial and other plants. As I see it, it would be absolutely unfair and improper to penalize shippers who cannot accept cars owing to the ravages worked by the epidemic on their employees. The matter is one absolutely beyond their control. Demurrage ought not to be charged under such conditions; and in my opinion the railways ought to be advised that demurrage ought not to be charged, and that if necessary the appropriate amending order will be made as of this date.

On Nov. 25, the Chief Commissioner gave the following judgment:—On Oct. 25 a judgment was issued providing that demurrage should not be charged where shippers were unable to accept cars owing to the ravages worked by the epidemic among their employees. This judgment was followed up by a memorandum dated Nov. 14, which was communicated to the different parties in interest by a letter from the board's Secretary, as follows: "I am directed by the board to write that

considerable misapprehension appears to exist as to the meaning of the direction given by the board on Oct. 25 last dealing with charges for demurrage during the influenza epidemic. The effect of the board's memorandum is not to abolish car demurrage tolls during the period of the epidemic. Relief, however, is extended to such consignees and consignors who were unable to load or unload cars concurrently owing to the illness of their employees. The general duty to unload promptly, where such unloading can be accomplished, still remains, but during the prevalence of the epidemic the railway companies may and must, where demurrage otherwise would be charged, relieve firms of demurrage payments to the extent that such firms have been unable to make prompt loading or unloading as a result of influenza among their employees. As a result it is the duty of the companies to consider each case on its merits, and apply the appropriate relief. As a further result, all railway companies which excuse the payment of demurrage on the grounds of influenza existing among the employees of consignees or consignors are justified in such action, having regard to all the prohibitions of discrimination."

The Car Service Bureau and those applying for relief under the judgment of Oct. 25 do not seem as yet to have arrived at any proper procedure in carrying out the board's directions, as a number of specific complaints have been received. There ought to be no difficulty in giving effect to the board's directions. The situation is perfectly plain. In the first instance, consignors and consignees who make delay either in loading or unloading cars, are subject to the penalties provided under the existing rules; but consignors and consignees who have been unable to load or unload as the result of the influenza among their employees are to be excused from the operation of the rules. Prima facie, a defaulting consignee or consignor is liable, and the onus of proof is on any consignee or consignor to show such a state of affairs existing as the result of the epidemic, and under which, with due diligence, it was impossible for the delay to have been prevented.

Applicants for relief under the board's order, so that the question can properly be disposed of not only as between the railways and the merchants, but as between merchants themselves, and so that all may be treated on a like basis and without discrimination, should file with the Car Service Bureau, or with the immediate railway company interested, evidence in writing, either by affidavit or

declaration, giving the following particulars: The number of men employed immediately previous to the epidemic. The number of men employed during the continuance of the epidemic and at the time the default in question took place. Any special or auxiliary efforts made to release the cars during such period, such as taking men when possible from other branches of the firm's activities, or securing them from outside sources, such as the services of outside carters when available, or showing that no men were available in other branches of the applicant's business. What action, if any, was taken to stop further shipments to the plant until the epidemic had ceased. If no action was so taken to show whether, in the course of trade, and having regard to the dates of shipments, any such action was possible.

Some of the complaints that have been received show that at least in part the applications are based upon the so called bunching of cars. The rules already provide for this, and apart from any specific direction, merchants are entitled to relief when cars are bunched, or in other words, when cars are being forwarded at the one time in greater numbers than as ordered and unloading facilities permit.

On the receipt of this material the matter ought to be promptly dealt with by the Car Service Bureau, or by the railway company interested, as the case may be, and under the circumstances the preliminary payment of the demurrage claim ought not to be insisted upon. It is, of course, open to the bureau or to the railway company interested to challenge the statements made and to ask in doubtful cases for further proof; but I confidently expect that the bureau and the railways will adjust, without the necessity of any board hearings, the great majority of cases which will arise.

The Car Service Bureau submits that when it is found that delays are in fact chargeable to the inability of employees of consignors or consignees owing to influenza, to load or unload, the higher tariff now in force ought to be reduced to the lower tariff of \$1 a day. There is no room for the distinction that the Car Service Bureau desires to make. When delays are unavoidable, owing to the ravages of the epidemic, it is not a question of the scale of charges; it is a question as to whether or not demurrage should or should not be charged, and the board has ruled that it ought not to be charged. No charge, therefore, of any character is to be made for unavoidable defaults attributable to the foregoing reasons.

Traffic Orders by Board of Railway Commissioners.

Interswitching of Freight Traffic.

General order 252. See page 538 of this issue, "Revised regulations for interswitching, etc., of freight traffic."

Minimum Weight for Crushed Stone.

General order 253. Oct. 29. Re complaint of Canadian Manufacturers' Association against increased carload minimum weight for crushed stone published by Grand Trunk, Canadian Pacific, and Canadian Northern Railways, effective October 1, 1918. Upon hearing the complaint at Toronto, Oct. 17, and its appearing that certain carriers have published and filed schedules increasing certain car-

load minimum weights to conform to Canadian Railway War Board's circular 75, dated Aug. 5, it is ordered that the said schedules be amended as follows, viz.: To provide that the minimum weight for crushed stone and other building and paving materials, now shown as the marked capacity of the car, but not less than 60,000 lb., be the marked capacity of the car, but not exceeding the actual weight when cars are fully loaded, subject to the said minimum of 60,000 lb. To provide that no greater weight shall be charged for the said materials than that to which the shipper may be restricted by the carrier by reason of any track

bearing limitations. That the amendments to give effect to this order come into force not later than Nov. 18, 1918.

Stoves for Fruit Shipments.

General order 254. Oct. 25. Re complaints of Dominion Brokers, Ltd., Calgary, Alta.; Plunkett & Savage, Calgary; Armstrong Growers' Association, Armstrong, B.C., and the Okanagan United Growers, Ltd., Vernon, B.C., against requirement of Canadian Pacific Ry. that, owing to the shortage of refrigerator cars and heaters, shippers of vegetables in British Columbia furnish stoves or other method of heating lined box cars, equipped with floor racks, in substitution