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## THE RAILWAY COMMISSION.

### Its Constitution, Jurisdiction and Work.

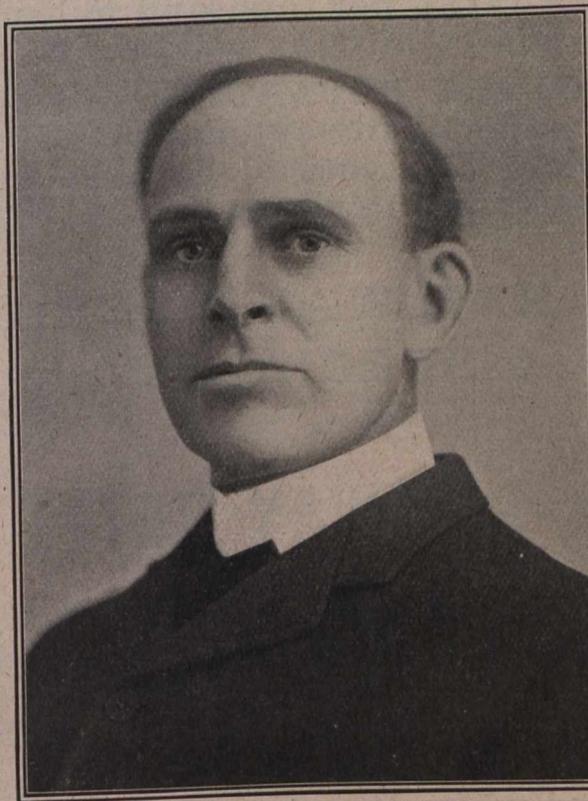
By James Mills, LL.D., one of the Commissioners.

I fear that my observations on this subject may prove to be extremely dry and uninteresting to many, because the Railway Act is a very prosy document, and the Railway Commission is composed of three matter-of-fact, hardworking men, assisted by a hardworking staff. Nevertheless, there is, I think, in the Railway Act, something of interest to thoughtful, progressive Canadians; for it deals directly with an important phase of the great problem of transportation—that part of it which we may speak of as the carriage of goods or commodities from place to place by land; and that is no ordinary problem; it is a problem of prime importance—might I not say the problem of the country? For however abundant and useful the products of our soil and the live stock on our farms, however great the quantity and excellent the quality of the timber in our forests, however varied and rich the ores in our mines, however ingenious in design and high-class in workmanship the output of our factories, they are all to a large extent valueless, unless we have a fairly efficient and not unreasonably expensive means of carrying them from the localities where they are produced to localities where they are wanted—to places where there are markets for them. Consequently, I feel warranted in saying that the problem of transportation is not an ordinary problem, but one of the utmost importance; and it is a problem of great difficulty, involving many troublesome and perplexing considerations which complainants are apt to overlook. Most people see only their own side of the cases submitted for adjudication; but the Railway Commission has to get and consider carefully the evidence on both sides; and it generally takes time to obtain the necessary information by correspondence with the railway companies or otherwise, weigh it judicially, and issue in proper form such orders as the facts and circumstances seem to warrant. Hence it frequently happens that the decisions of the Commission are not given so promptly as many think they should be.

As a Commission, we are under obligation to do everything that can fairly and reasonably be done to secure for the people of this country prompt, good, and reasonably cheap transportation—to keep the golden stream of commerce flowing swiftly and benignly past their doors; but, in our efforts to meet the wishes of the people in this respect, we must be careful not to issue orders which will result in serious injury to our transportation

companies; for anything that would destroy the credit of any of our leading railway companies or otherwise seriously cripple them, would be a calamity—would do incalculable damage to the whole country. Hence, metaphorically, if not very elegantly, I may say that, in our zeal, we must not kill the goose that lays the golden eggs.

The distinctive title of the Commission is "The Board of Railway Commissioners for



O. O. WINTER,

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Canada"; and throughout the Railway Act it is usually referred to as "the Board." The general scope of the Act may be very briefly stated under six heads: 1. The constitution, procedure, jurisdiction, and general powers of the Board; 2. The incorporation of railway companies; 3. The construction of railways; 4. The operation of railways; 5. The traffic on railways, including passenger fares and freight rates; 6. Penalties for specific sins of omission and commission—some 46 in number, varying in amount from \$2 to \$5,000 each.

The Commission is a court of record, with very wide jurisdiction in matters pertaining to railways and railway companies; it has all the powers, rights, and privileges which are vested in a superior court, and powers much greater than the powers of any other court

in the Dominion. The findings of the Board on questions of fact within its jurisdiction are binding and conclusive; every decision or order of the Board is final; the Board is not bound by the findings or judgments of other courts; and no order, decision, or proceeding of the Board can be questioned or reviewed, restrained or removed by prohibition, injunction, certiorari, or any other process or proceeding in any court. There is a right of appeal from the Board to the Supreme Court of Canada on questions of jurisdiction, and the Board may allow appeals to the same court on questions of law; but the only body which of itself can rescind or vary any order, decision, rule, or regulation of the Board is the Governor-in-Council. The Board may review, change, alter, vary, or rescind its own orders and decisions as often as it thinks proper; and it can do of its own motion anything it can do upon complaint or application. Doubtless, the reason for giving such extensive powers to the Commission was the hope that through it, by direct, simple and informal proceedings, shippers and others having dealings with railway companies, express companies, and telephone companies, might have their disputes settled and get substantial justice without expensive litigation and the possibility of appeals carried from court to court; and the greatness of the power bestowed, imposes upon the Commission the obligation to exercise due care, deliberation, and caution in everything it does or refuses to do. It is scarcely necessary to say that the work of the Commission is very heavy.

The great Interstate Commerce Commission of the United States has been in existence for about 20 years. It was at first composed of five commissioners, who were paid \$7,500 a year each; but recently two additional commissioners were appointed, and the salary was increased to \$10,000 a year each. The Commission elects its own

chairman, aiming to get a man who is a good organizer, possessed of first-class executive ability. Mr. Knapp, the present chairman, has been on the Commission for about 16 years, and has been Chairman for 10 years. He was Chairman when there were five commissioners, and has been Chairman since the number of commissioners was increased to seven. He has taken part in the work of both commissions; and regarding the number of commissioners, he is of opinion that seven is the maximum number for efficient administration,—he doubts whether seven would be better than five,—he feels sure that five would be better than nine or more, and he thinks that when there is need (as there may occasionally be), the Commission should select and send out special men, specialists, experts, if you will, to do special work,