

Free and Reduced Railway Passenger Transportation.

The Canadian Railway War Board made the following application to the Board of Railway Commissioners on Oct. 16, 1919:—"Section 345 of the Railway Act, 1919, after enumerating certain classes of persons to whom railway companies may issue free transportation or transportation at reduced rates, provides that such transportation may in addition be given 'to such other persons as the board may approve or permit.' After very careful consideration of the subject, it appears to the Canadian Railway War Board that it is necessary and proper that in addition to the classes of persons specifically enumerated in the Railway Act, the companies should be permitted to issue free transportation to the following classes:

"(a) Immigration Department of Dominion of Canada: For such representatives of the department as may be required by the Minister or Deputy Minister.

"(b) Immigration and Customs Departments of the United States: For such representatives of the departments as may be required by the Commissioner or Deputy Commissioner of Immigration or Collector or Deputy Collector of Customs in charge of the district.

"(c) Fire rangers within their respective districts, employed or authorized by provincial governments.

"(d) Families of former and deceased employees of railways.

"(e) Former employees of transportation companies and their families.

"(f) Deputy ministers of the Federal Government departments.

"The Canadian Railway War Board, therefore, on behalf of the railways under the board's jurisdiction, respectfully requests that the Board of Railway Commissioners should, under its powers, permit the railway companies to issue free transportation to the classes of persons above named."

Chief Commissioner's Judgment—Chief Commissioner Carvell gave the following judgment, Nov. 12:—"After having considered sec. 345 of the Railway Act, 1919, very carefully, I have come to the conclusion that the whole purport of the section was to give to the railway companies, within certain limits, the right to carry traffic at free or reduced rates; and to such classes of persons and, in some cases, individuals, as the companies may decide upon, subject in certain cases to the approval and permission of this board. The whole section is preceded by the following words: "Nothing in this act shall be construed to prevent." It then refers to five specific classes of persons, and a careful examination shows that there is no great change between the present act and its predecessor, excepting that in subclauses (a) and (c) a limitation is placed upon the power of the railway companies, and in subclauses (d) and (e) an extension is provided for.

Under clause (a) the most which the railway companies can do towards reduced fares for ministers of religion, etc., is to carry them at one-half the regular fare, and under clause (c) the most they can do for members of the provincial legislatures is to carry them free within points in the province to which they belong. It is not clear whether members of the press can be carried free beyond the province in which they reside, but, as there is no comma after the word "legislatures," and nothing to designate

a difference in the two classes, I am rather inclined to the opinion that the limiting words "between points within the province" apply to the latter as well as to the former. Clause (c) also extends the privilege to dependent members of the families of any persons who are entitled to free transportation under sec. 346 of this act, and clauses (d) and (e) also extend the right to employees of the Railways and Canals Department and to the Governor General and staff, etc.

This narrows the question down to the interpretation of the last line of clause (c), viz.: "or to such other persons as the board may approve or permit," and to the proviso immediately following subsection ((e), both of which are to be found in the previous act. These words evidently mean something, and it is my opinion that a railway company may decide to grant the privilege of free or reduced transportation to any person, or class of persons, subject always to the approval or permission of the board, and also subject to the proviso herein referred to, which, in my opinion, is a regulating power rather than an enacting one.

To apply this opinion specifically to the request made by the Canadian Railway War Board on Oct. 16, 1919, it would seem to me that the railways would have a right, subject to our approval or permission, to grant free or reduced transportation to those parties mentioned in clauses (b), (d), and (e) as well as to all others. Thus, if the railway companies decide to grant free transportation to United States immigration and customs officials, to the families of former and deceased employees of the railways, and the families of former employees of transportation companies, then, if this board approves or permits, they will be within the law in granting such transportation.

I am not so clear as to the real intention of parliament with reference to the proviso hereinbefore referred to, because, taken in its general sense, we are given the right to extend, restrict, limit, or qualify the carriage of traffic by the companies as provided under this section, but I have come to the conclusion that this is only meant as a regulating clause, and our powers are restricted to extending, restricting, limiting, or qualifying what the companies may propose to do, and, therefore gives us no originating jurisdiction; but when the railway companies come to us, asking that certain persons or classes of persons be given the privilege of free transportation, we would have the right to extend, restrict, limit, or qualify the same. If I am right in my general interpretation of the clause, then I think we have the power either to approve or disapprove of all the requests made by the Canadian Railway War Board in its letter of Oct 16, and, as they seem to me to be proper requests, I am in favor of approving the same and permitting the issuing of transportation as requested.

The Board's Order—The board passed general order 274, Nov. 20, 1919, as follows:—"Re application of the Canadian Railway War Board, on behalf of railway companies subject to the board's jurisdiction for free transportation under sec. 345 of the Railway Act, 1919. Upon reading the application dated Oct. 16, 1919, and considering what has been urged in support thereof, it is ordered

that railway companies of Canada subject to the board's jurisdiction, be permitted, until further order, to carry free of charge the following persons, viz.: (a) Department of Immigration of Dominion of Canada: For such representatives of the department as may be required by the Minister or Deputy Minister.

(b) Departments of Immigration and Customs of the United States: For such representatives of the departments as may be required by the Commissioner or Deputy Commissioner of Immigration or Collector or Deputy Collector of Customs in charge of the district.

(c) Fire rangers within their respective districts, employed or authorized by provincial governments.

(d) Families of former and deceased employees of railways.

(e) Former employees of transportation companies and their families.

(f) Deputy ministers of departments of the Federal Government, and those having the rank of deputy ministers.

The Railway Act's Provisions—The Railway Act, 1919, provides in secs. 345, 346 and 347 as follows:

345. (1) Nothing in this act shall be construed to prevent: (a) the carriage, storage or handling of traffic, free or at reduced rates, for the Dominion, or for any provincial or municipal government, or for charitable purposes, or to or from fairs and expositions for exhibition thereat, or the carriage, free or at reduced rates, of destitute or homeless persons, transported by charitable societies, and the necessary agencies employed in such transportation, or the carriage at one-half the regular single fare of ministers of religion or persons exclusively engaged in charitable, religious, or eleemosynary work;

(b) The issuing of mileage, excursion or commutation passenger tickets, or the carriage at reduced rates, of immigrants or settlers and their goods or effects, or any member of any organized association of commercial travellers with his baggage;

(c) Railways from giving free carriage or reduced rates to their own directors, officers, agents and employees, or their families, or to former employees of any railway, or for their goods and effects, or between points within the province to members of the provincial legislatures or to members of the press, or to members of the Interstate Commerce Commission of the United States and the officers and staff of such commission, and for their baggage and equipment, or to dependent members of the families of any persons who are entitled to free transportation under section 346 of this act, and for their baggage, or to such other persons as the board may approve or permit; or,

(d) Railways or transportation companies from exchanging passes or free tickets with other railways or transportation companies for their officers, agents and employees and their families, goods and effects, or from issuing passes or free tickets to officers and employees of the Department of Railways and Canals, or their families, and their goods and effects, or a similar interchange of passes, or franks with or by telegraph, telephone and cable companies;

(e) Railways from giving free car-