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Canada. Parliament. Senate.
Standing Committee on Railways,
Telegraphs and Harbours, 1937.
Proceedings...

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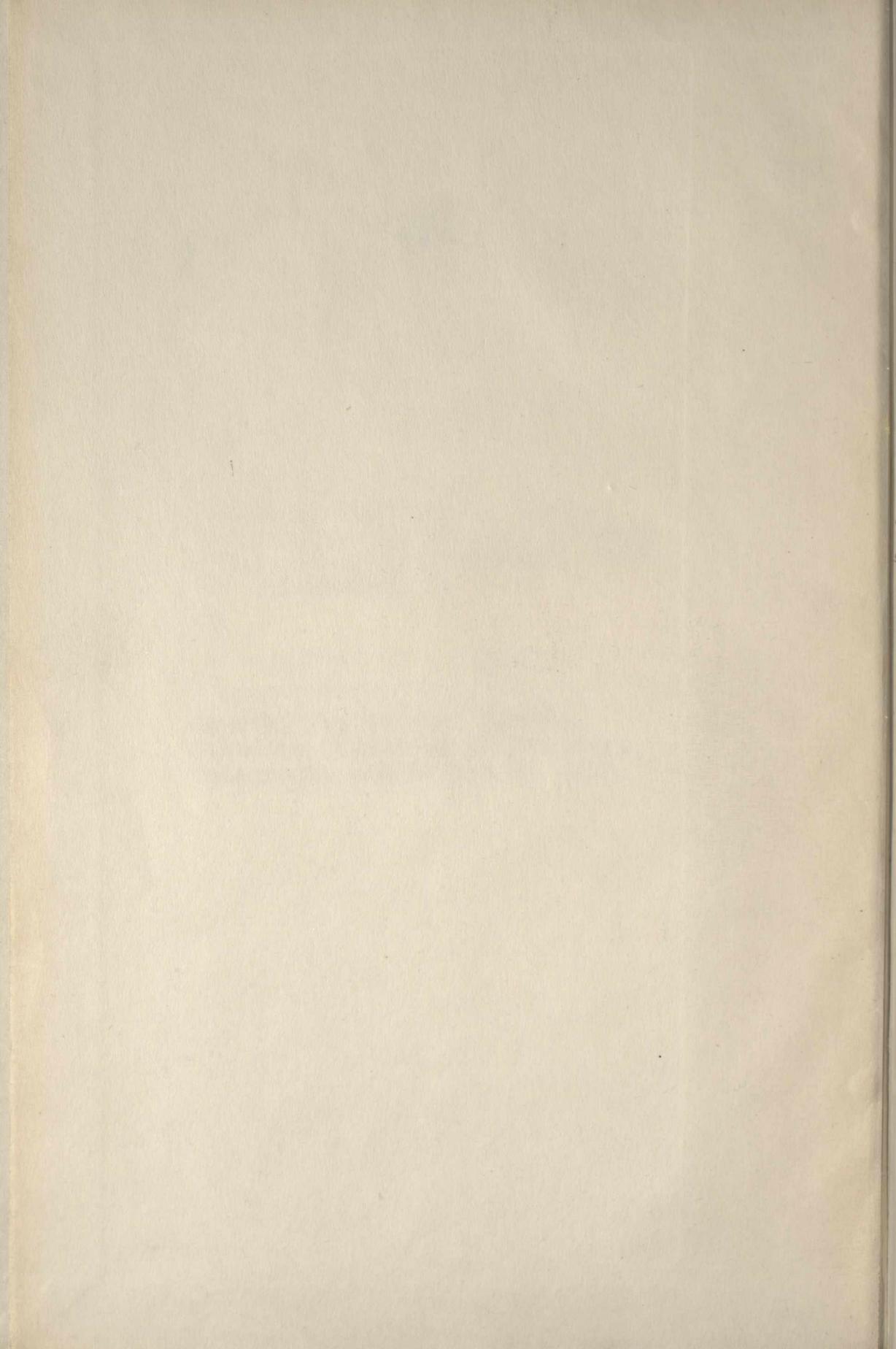
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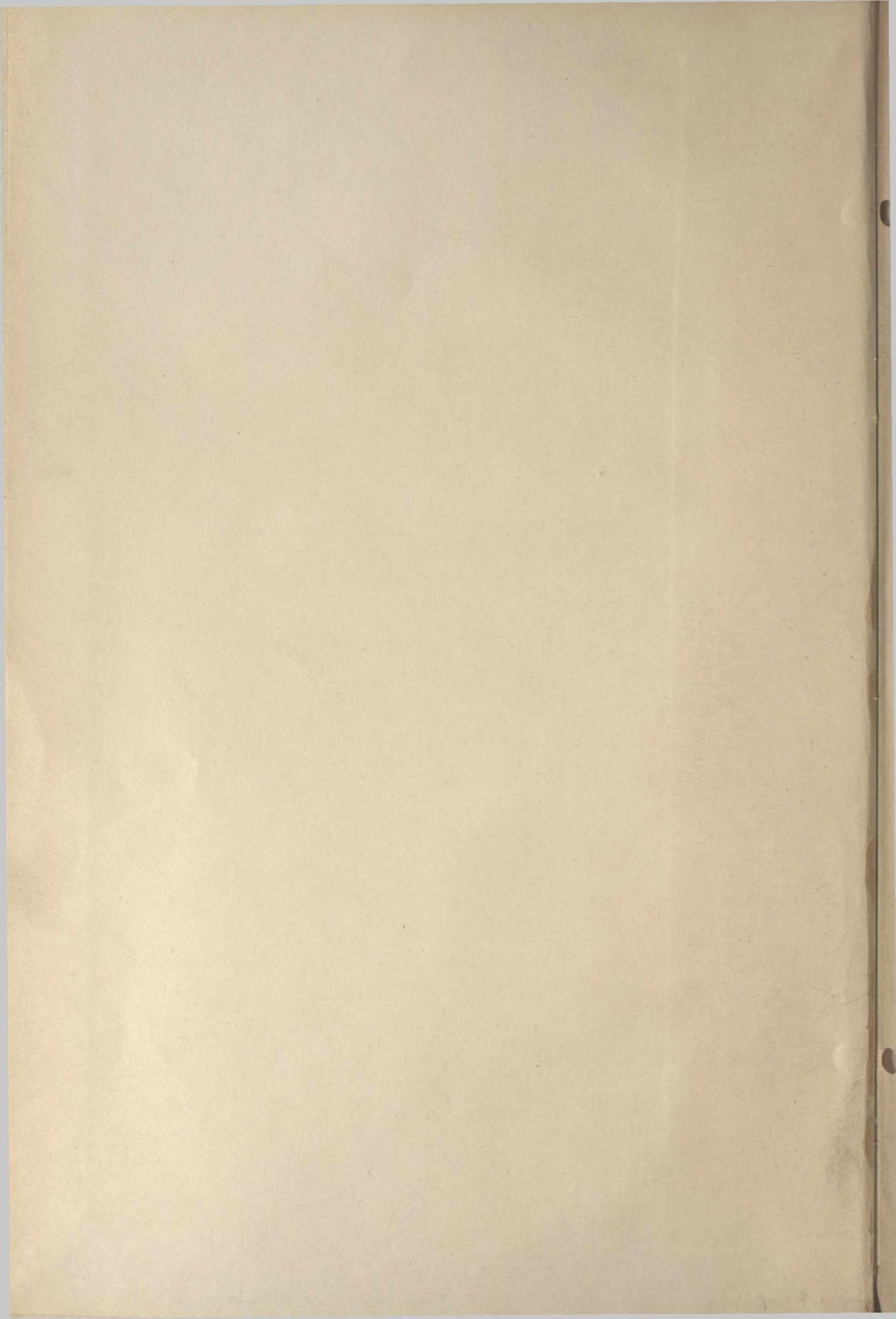
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THE SENATE OF CANADA



PROCEEDINGS

OF THE

STANDING COMMITTEE

ON

RAILWAYS, TELEGRAPHS AND HARBOURS

ON

BILL B

An Act to establish a Board of Transport Commissioners
for Canada, with authority in respect of transport
by railways, ships, aircraft and motor vehicles

No. 1

The Right Honourable GEORGE P. GRAHAM, P.C.,
Chairman

WITNESSES:

The Honourable C. D. Howe, P.C., M.P., Minister of Transport.
Mr. A. Roy Brown, Toronto, representing General Airways, Ltd., and
United Air Services, Ltd.

STATEMENT:

By Senator the Honourable C. C. Ballantyne, P.C.

OTTAWA

J. O. PATENAUDE, I.S.O.

PRINTER TO THE KING'S MOST EXCELLENT MAJESTY

1937

THE STANDING COMMITTEE ON RAILWAYS, TELEGRAPHS AND
HARBOURS

The Rt. Hon. GEO. P. GRAHAM, P.C., Chairman

The Honourable Senators

Arthurs	L'Espérance
Ballantyne	Logan
Barnard	MacArthur
Beaubien	Marcotte
Black	McDonald (<i>Shediac</i>)
Bourque	McGuire
Buchanan	McLennan
Calder	McRae
Casgrain	Meighen
Copp	Michener
Dandurand	Mollot
Dennis	Moraud
Farris	Murdock
Gillis	O'Connor
Gordon	Parent
Graham	Pope
Green	Rainville
Griesbach	Raymond
Haig	Robinson
Hardy	Sharpe
Harmer	Spence
Horner	Sutherland
Jones	Tobin
Lacasse	Turgeon
Laird	Webster—50.

(Quorum 9)

MINUTES OF EVIDENCE

THE SENATE,

WEDNESDAY, February 10, 1937.

The Standing Committee on Railways, Telegraphs and Harbours, to whom was referred the Bill B, an Act to establish a Board of Transport Commissioners for Canada, with authority in respect of transport by railways, ships, aircraft and motor vehicles, met this day at 10.30 a.m.

Right Hon. George P. Graham in the Chair.

The CHAIRMAN: Gentlemen, we are met this morning to enable the Hon. Minister of Transport or some person deputed by him to explain to us the features of this Bill, so that when we start to discuss it among ourselves or to hear evidence or protests one way or the other, we shall have a better understanding of the measure.

The Hon. Minister of Transport is present. How shall we proceed? Shall we ask him to explain the Bill or to give us a general idea of its scope?

Right Hon. Mr. MEIGHEN: Let him give us the general reasons for the Bill.

The CHAIRMAN: I think that will be the better course. Is there any reason for the Bill, Mr. Howe?

Hon. C. D. HOWE (Minister of Transport): Yes, Mr. Chairman, this Bill, I believe, is a necessary piece of legislation. I am not minimizing the fact that it is going to be a difficult Bill to work out. I think you will hear strong representations for and against various clauses. It is also going to be a difficult measure to administer, and the success of its various provisions will, I think, depend a good deal upon its administration.

I accept the situation that the Bill cannot be administered for any industry unless that industry generally is favourable to such administration, and I think the various industries covered by the Bill are fairly well ready and willing to have it applied to them.

There has been a good deal of comment to the effect that this Bill is sponsored by the railway companies to protect themselves. That is not my understanding of the situation, and I think it can hardly be accepted as the reason for its introduction. It is not the intention that by this Bill one industry shall be regulated in favour of another industry. The intention is that regulation shall be applied to each industry in the interests of that particular industry and having in mind, of course, the protection of the public that uses the industry. But, I repeat, it is not a Bill designed to protect one industry against a competing industry.

In going over the clauses of the Bill you will find that the relations of the Board of Railway Commissioners to the railways are not altered except in part VI, which I shall come to a little later. The regulating and inspecting powers as affecting the railways will be exactly as they are to-day.

I think Senator Dandurand, in introducing the Bill, covered the general situation. As you know, regulation of railways goes back to 1888, when a committee of the Privy Council had jurisdiction over railway rates. At the turn of the century, about 1903 or 1904, the present Board of Railway Commissioners was established. I would point out that at that time the railway was the dominating factor in transportation. The other methods of transportation carried so little in proportion to the railways that the regulation of the railways, in effect, was regulation of the competing industries.

That situation, I think, existed up to about 1920, but since then it has entirely changed. The railway is no longer the dominating factor in transportation; in fact I suppose it carries less than 50 per cent of the freight and passengers that are moved in Canada to-day. The automotive industry has grown very rapidly indeed and has become a very important factor in transportation.

The completion of the Welland canal released a great number of freighters; that is, owing to the longer haul of the larger freighters a great number of the smaller freighters were released from that service and more or less turned loose to compete for traffic that they had never previously thought of carrying. So that to-day the steamships and the motor transports are much greater factors in the general transportation problem than they have ever been before.

I am pretty well convinced that in the interests of all transportation we must do one of two things, either do away with regulation of the railways, or apply regulation generally to their competitors.

The first departure in this Bill is to regulate transportation by water. I may say that it is not the intention to apply this regulation to coastwise shipping on the two oceans. I think there is no great demand for it there and no particular reason why it should be applied.

Hon. Mr. BLACK: Why not say that in the Bill, Mr. Howe?

x Hon. Mr. HOWE: Regulation may apply later. You will notice the Bill is very flexible. It must necessarily be so. Its provisions are applied to any waters and to any class of ships that the Governor in Council may designate. I do not know at the moment any purpose in excluding the two oceans, although I may say it is not the intention to apply the Bill, nor will it be applied, to either ocean unless the industry itself or a considerable portion of it signifies a wish to have the Bill so applied.

Hon. Mr. LAIRD: Have you got the power to apply it?

Hon. Mr. HOWE: We have the power, yes, under this Bill, in purely Canadian transportation.

Right Hon. Mr. MEIGHEN: Do you purpose applying it to traffic between ocean and lake ports?

Hon. Mr. HOWE: No, not at the beginning. The particular need for it to-day is from Montreal to the head of the Great Lakes, where there is a tremendous surplus of tonnage, and where rates fluctuate as much as 100 per cent in the course of two or three weeks.

There is a considerable demand from the industry itself to apply this regulation on the lakes. I presume you will hear conflicting views from the carriers on this point, but I think you will find—it has been my experience—that a considerably predominant part of the tonnage on the lakes desire to have regulation applied.

Like the Railway Act, this Bill does not give the Board power to initiate rates; it can simply approve or disapprove of rates filed by the carrier. I think Mr. Guthrie will tell you that that is the position with regard to rates, and that also applies to the regulation proposed for ocean shipping.

There is one feature of the Bill, perhaps, that requires explanation. It is provided that a trading licence shall not be issued to a ship imported into Canada, which, at the time of importation, is over ten years old. That does not apply to ships now in service. In the last three or four years there has been a tremendous dumping of obsolete American tonnage into Canada, tonnage that is out of service over there, sold for a song to a Canadian buyer, brought in and the duty paid. By having its engines rated down to a lower pressure it can comply with the Canadian Act and be put into service. A boat can be laid down here for about \$50,000 that can carry as much grain as a Canadian

built boat that has cost \$700,000 or \$800,000. The result is that our Canadian shipping is in considerable part composed of tonnage that is considered obsolete across the line, and which is brought here for the conveyance of goods, to be operated by Canadian sailors. I think this is very unfortunate for the Canadian shipping industry in general. It is unfair to the Canadian shipper who builds modern tonnage, and it is a practice that I think should be stopped.

I might point out that that clause does not operate against British shipping. British shipping is and will be allowed to coast in Canadian waters. It has that right under a separate treaty. This applies in practice only to tonnage brought in from the United States.

In transport by air we have a new industry.

Hon. Mr. DANDURAND: Before you pass on to that. There has been a question as to coastwise trade along the rivers of the smaller tonnage.

Hon. Mr. HOWE: It is not intended to apply it to the smaller tonnage. The smaller tonnage we intend to apply it to is the ordinary canal-sized boat that carries a minimum of about 80,000,000 bushels.

Right Hon. Mr. MEIGHEN: I suppose it is implicit in the situation that if you undertake to regulate rates for intercoastal lake traffic you will have to call in the Shipping Act with respect to American vessels.

Hon. Mr. HOWE: Yes, although there is a Bill now introduced in the United States Congress which is entirely parallel with this as to the regulation of both lake tonnage and coasting tonnage.

Right Hon. Mr. MEIGHEN: Still they will regulate it to be below us.

Hon. Mr. HOWE: I am not so sure. The United States has already taken over the regulation of interstate motor traffic and also aviation traffic. The Interstate Commerce Commission fixes rates for mail on aeroplanes, approves rates for the carriage of freight and passengers, and also licenses all common carriers—motor trucks—for interstate traffic. So they are a step ahead of us in adopting the type of regulation we are attempting here.

The CHAIRMAN: Their constitution and ours harmonize?

Hon. Mr. HOWE: Pretty much on that. The United States has no jurisdiction to regulate motor traffic inside a state.

The CHAIRMAN: Their Interstate Commerce Commission and our Board of Railway Commissioners have practically the same power.

Hon. Mr. HOWE: Yes.

Hon. Mr. BLACK: You say that only vessels above a certain tonnage are going to be licensed.

Hon. Mr. HOWE: That is all that is intended at present.

Hon. Mr. BLACK: The legislation is still permissive. You can legislate for everything down to a two-ton bottom.

Hon. Mr. HOWE: Quite. I am only expressing the present intention of the Government, provided the Bill passes. We will proclaim it to apply to boats of certain tonnage, perhaps 3,000 tons, and to apply to waters from Montreal to the head of the lakes.

Hon. Mr. BLACK: Paragraph 6 would indicate that if you are going to license, you would have to license everything.

Hon. Mr. HOWE: I think the paragraphs at the end make that clear.

The Governor in Council may by regulation exempt any ship or class of ships from the operation of this part.

And the previous paragraph says:

This part shall not come into force on, or in respect of, any sea or inland water of Canada until proclaimed by the Governor in Council to be in force on, or in respect of, such sea or inland water.

Hon. Mr. BLACK: If you are going to license ocean water carriers, and if you put the limit at 500 tons, which is a small boat, boats smaller than that will perhaps carry at a lower rate, and your regulation will be of no use. It seems to me that you must license all bottoms or else none.

Hon. Mr. HOWE: I do not think that follows. If you will examine the actual situation of the waters in which we are particularly interested, you will find that a carrier of the canal size and type is the smallest carrier that is a factor in the trade.

Hon. Mr. BLACK: Just now.

Hon. Mr. HOWE: Yes.

Hon. Mr. BLACK: If you license a certain group you at once open the door for another group.

Hon. Mr. HOWE: We do not look for an increase in rates. We look for a stabilization of rates. I cannot think it will encourage the small carrier.

Hon. Mr. HORNER: In this Bill it is proposed to stabilize rates. Does the Government also propose to stabilize the price of grain?

Right Hon. Mr. MEIGHEN: They have done that.

Hon. Mr. HOWE: We did that for several years.

Hon. Mr. DANDURAND: Will you proceed, please, Mr. Howe. You were about to enter upon the air service.

Hon. Mr. HOWE: Yes. With regard to transport by air, we are practically at the commencement of a new development, perhaps, the start of interurban flying. That is flying between cities, with proper landing fields, with a radio beam, with weather reports, all supplied by the Government. I think we should start regulation with the commencement of the industry. Since there is no industry at the moment there can be no hardship. There is, of course, a great deal of flying in Canada into unorganized territory. We have a very important industry there. Whether the regulation should be extended to cover present activity is a matter that will have to be determined more or less by the situation there.

This has never been a particularly live issue as affecting those presently engaged in aviation. You will hear representations from them, perhaps, before the work of this committee is finished, and you will form ideas about that which will be helpful.

The CHAIRMAN: Is that private corporations?

Hon. Mr. HOWE: Private corporations to-day, but at the moment my thought is to get a more even start with the interurban flying which is developing very rapidly in the United States, and which is controlled by the Interstate Commerce Commission. We expect to develop in a similar way here.

Now we come to transportation by highway. Under present conditions I think we can do little. On the other hand, I am told that the regulation of interstate traffic in the United States has had a beneficial effect both in the industry and in satisfying the customers of the industry. The complaints I have to-day, and they are many, are usually from the customers who object that they have no way of knowing what their competitors are paying for freight haul by truck. I doubt if we can do anything about it at the moment. The provinces are quite jealous of their prerogative with respect to highway traffic in the provinces. It may be difficult to do anything about interprovincial traffic. As a matter of fact, in Canada that traffic is not as important as interstate traffic is in the United States. Our provinces are larger in area than the states, and there is less traffic between them. However, I think we should take the power.

You will notice that this extends an invitation to the provinces to place the control of provincial traffic under the Board of Railway Commissioners. I think that is a worthwhile invitation, and I would like to see this in even though I expect very little from it in the very near future.

Hon. Mr. DANDURAND: Would you explain what you mean by a Dominion highway?

Hon. Mr. HOWE: A highway owned by the Dominion of Canada.

Hon. Mr. DANDURAND: A highway throughout the whole of Canada?

Hon. Mr. HOWE: It does not refer to the trans-Canada highway. We do not own it, but we do own highways along canals and in the parks.

The CHAIRMAN: Is it the idea of the Government that it would endeavour to get a section in the Railway Act which would declare that an interprovincial railway, for instance, could be declared for the general advantage of Canada, and, for certain conditions and connections, would consequently come into the Federal control? Have you an idea that you could reach a point where the province would agree to that, or that you could do it without it agreeing?

Right Hon. Mr. MEIGHEN: It would not be unreasonable to declare that the trans-Canada highway was a work for the general advantage of Canada.

Hon. Mr. HOWE: No, probably not.

The CHAIRMAN: No. That is not in sections. Is that the way you would go about it?

Hon. Mr. HOWE: Of course, I believe that we have jurisdiction over a motor vehicle crossing a provincial boundary or an international boundary. A great deal of trucking goes from Detroit and Buffalo to Canada, and from Boston and New York into the province of Quebec. I suppose we have the power to compel the carriers in those cases to get a Dominion licence. Whether we would get any benefit from exercising that power I am not sure; I have my doubts.

The CHAIRMAN: Particularly as the provinces grant the licences now.

Hon. Mr. HOWE: Quite. And I think we can only operate here with the full concurrence of the provinces. If the provinces wish us to exercise it we shall have the authority and the machinery set up.

Hon. Mr. DANDURAND: And an effort can be made to harmonize provincial regulations with those of the Dominion.

Hon. Mr. HOWE: Quite.

The CHAIRMAN: You can readily understand, of course, that not only do the provinces control these things but they get a large revenue from them.

Hon. Mr. HOWE: There is one thing I might explain here, perhaps, if we could look back at the parts dealing with Transport by Water and Transport by Air. It is provided that the Minister shall be the licensing authority. That is a departure from the Railway Act, where the Board has the full power. The reason for that is that we already license steamships in matters affecting safety. Every steamship receives a licence from the Minister of Transport. It is not our intention to transfer the safety licences to the Board. They are issued by a very old branch which is well administered in the Department of Transport. We intend to continue licensing boats for safety, and since that is so we felt that we should also issue licences for trading, which will of course be issued on the recommendation of the Board of Railway Commissioners. That will prevent a condition which might arise if the Department refused a licence, from the point of view of safety, and the Board, if it acted independently, issued a trading licence.

I might say in regard to this Act that it is only a first step. After we build up a little experience under the operation of the Act, the whole Railway Act will have to be rewritten so that the powers of the Board are extended under it.

To do that now might lead to unnecessary changes having to be made as we gain experience from administering the Act. It was felt that the best immediate procedure would be a Bill of this type, which extends the powers of the Board and applies certain sections of the Railway Act at the same time. Probably in two or three years we shall be able to consider a revision of the Railway Act itself.

There are one or two other clauses that, perhaps, might be of interest. Part V gives the Board power to review harbour tolls. It applies only to the national harbours and properties owned by the Government. The difficulty we have now is that we are both operators of the harbours and the rate fixing body. We apply a rate, objections are taken and we are in the position of interested parties in that we are interested in the revenues. We believe it would help our administration greatly if any rate could be subject to review by a judicial board. Then if we instal a rate and protests are made, instead of the matter coming to us, interested parties, it could be brought before the Railway Board. We would have to make our case, the user of the dock would make his case, and the Board would give a ruling.

The CHAIRMAN: Just as with a railway?

Hon. Mr. HOWE: Yes, much the same.

Part VI introduces a new feature, one that has been adopted in England and has met with a great deal of success there. It gives permission for a carrier to contract with a customer for the carriage of its goods at a rate which is a departure from the tariff rate. The contract can only be made with the approval of the Board, and it would apply to an industry that perhaps uses two or three types of carrier for distribution of its produce. These sections give it permission to contract with one carrier for the exclusive carriage of its produce. As I say, the procedure is new on this continent, but it is in universal and successful application in Great Britain. I believe it applies to the conditions of transportation that we have to-day, and that it will be a forward step in allowing carriers to handle their business.

Hon. Mr. DANDURAND: Of course it covers railways.

Hon. Mr. HOWE: Yes, covers all types of carriers.

Hon. Mr. GRIESBACH: Is there any provision for publicity with respect to these agreed upon rates?

Hon. Mr. HOWE: Oh, yes, they must be filed with the Board of Railway Commissioners and anyone can object. They are treated in the same way as other rates.

Hon. Mr. GRIESBACH: Upon what principle would applications be determined, then, by the Board of Railway Commissioners?

Hon. Mr. HOWE: In this way: "Would this in any way constitute a discrimination?"

Hon. Mr. GRIESBACH: That would be the sole ground?

Hon. Mr. HOWE: Yes, practically.

Hon. Mr. GRIESBACH: Would not every case constitute discrimination?

Hon. Mr. HOWE: I do not think so, provided everybody had the same privilege of contracting for similar goods.

Hon. Mr. BLACK: There is discrimination now in the carrying of freight in Canada, because there is no regulation. Would not this allow a railway to make a contract with me or some other manufacturer to carry my goods at a rate as low as a motor transport company would carry them?

Hon. Mr. HOWE: Yes, that might be done.

Hon. Mr. BLACK: That is a protection to the railways, perhaps?

Hon. Mr. HOWE: It is a protection to all carriers.

The CHAIRMAN: The contract would have to be with the approval of the Board?

Hon. Mr. HOWE: Oh, yes. The contract must be filed with the Board.

The CHAIRMAN: It seems to me there was another measure, which if I remember correctly was supported by the Hon. Mr. Stevens, directed against the practice of a wholesale house receiving a special price because it took the whole output of a manufacturing establishment. It was contended that the big buyer should not receive a special price; that, for instance, John Jones, who bought six lawn mowers, should get the same price as the Eaton Company, who bought five thousand. Is this the same principle in here?

Hon. Mr. HOWE: Something of that kind. We are breaking new ground on this continent in the application of this. I think your committee will require to hear interested parties on it, and you may decide that it is a proper thing or that it is not. I am simply calling attention to it as a new departure.

Right Hon. Mr. MEIGHEN: Mr. Howe, would it not be better if the branch in your Department which has to do with licensing of vessels were transferred to the Railway Commission, so as to make the whole service autonomous right through? The branch is really exercising judicial functions. If such a transfer were made there would be no mix-up at all.

Hon. Mr. HOWE: Of course, that would mean building up the machinery of the Board of Railway Commissioners tremendously.

Right Hon. Mr. MEIGHEN: But the machinery of your own Department would be reduced to the same extent. In fact, I should think that the aggregate result would be a reduction. The recommendation has to come from the Board in respect of licences. Why not put the Board in the same position in this matter as they are in with regard to railway operation?

Hon. Mr. HOWE: Of course, regulation of shipping is something that goes back to Confederation. A branch was built up in the Marine Department. That work is the chief function of the Marine Service to-day, really.

Right Hon. Mr. MEIGHEN: If we could get rid of a department that would be a great reform.

Hon. Mr. HOWE: We have got rid of a department.

Hon. Mr. DANDURAND: There is a matter which is not clear to my mind, as to the application of section 22, Part VI. A shipper may ask for a special rate from a carrier for carriage of goods. If the application were granted, a rival shipper in the same area would feel that he is discriminated against, since his competitor would be charged a reduced rate. What could he do under this Act, to put himself in as good a position as his competitor who has obtained that reduced rate?

Hon. Mr. HOWE: He could apply to the Board for a hearing and state his objections. The Board would have to remove the discrimination, if there was any.

Hon. Mr. DANDURAND: Then the contract is limited to the one shipper? Other shippers in the same area would need to obtain authorization from the Board for the same rate?

Hon. Mr. HOWE: Yes. You see, the situation to-day is that the railway is expected to be a sort of standby for a great many industries. A great many industries ship one hundred per cent, say, by truck in summer months, or by boat, and come back to the railway only for the winter haul. Well, it is hardly fair to maintain a railway as a standby. Yet, a good many lines are being maintained as standbys to-day. Our feeling is this: let such industries contract with one or other type of carrier. If they want to use the trucks, let them contract with the trucks and let us take up the railway; on the other hand, if they want to contract with the railway, let them do that.

Right Hon. Mr. MEIGHEN: They cannot very well contract with ships for the winter.

Hon. Mr. HOWE: No.

Hon. Mr. CALDER: If I am a business man and I want to make a contract of that nature, I apply to the Board for approval. What notice will the public have that I am asking for this approval?

Hon. Mr. HOWE: The rates are published, and the public have a certain time within which to object to them.

Hon. Mr. CALDER: Is there sufficient publication to give notice or warning to every person interested?

Hon. Mr. HOWE: Yes.

Hon. Mr. PARENT: The Board might proceed with an application as the Tariff Board does.

Hon. Mr. HOWE: Yes.

Hon. Mr. GORDON: As to changes in the tariff, I think that whenever any revision is made, up or down, notices should be posted in places convenient to the public, so that what was done might be known by everybody and particularly by persons interested.

Hon. Mr. PARENT: Or there might be publication in the Canada Gazette.

Hon. Mr. CALDER: Nobody sees that.

Hon. Mr. GORDON: The Canada Gazette has not sufficient circulation for that.

Hon. Mr. HOWE: Hon. Mr. Guthrie, Chairman of the Railway Board, is present and he can explain the work of the Board in this connection better than I can. I am not as familiar with the machinery of the Board of Railway Commissioners as perhaps I should be.

The CHAIRMAN: We will ask Mr. Guthrie if he wants to make any explanation right now.

Hon. Mr. CALDER: Before Mr. Guthrie speaks, may I make my point quite clear? When a shipper applies to the Board for approval of a special rate by railway, a rate lower than that ordinarily prevailing, what notice is given to his competitors of that application? Are his competitors given ample opportunity to object to such special rate before the Board? I am sure these questions are in the minds of everyone here.

Hon. Mr. DANDURAND: Or how can the competitors obtain the same low rate for themselves?

Hon. Mr. CALDER: Yes. We must make certain that the competitors, and any of the public who are interested, will have full opportunity to oppose any obligation, or to make a similar application on behalf of themselves, if they so desire.

The CHAIRMAN: Would you care to say something, Mr. Guthrie, on the point of notice to the public?

Hon. Mr. GUTHRIE: Mr. Chairman, the general provisions in regard to tariffs are very broad. As soon as a tariff is filed which in any way changes the rate, whether standard, special or competitive, it has to be made public and notice thereof given in every agency of the railway company, and it is open to the public—to all shippers or to anybody else concerned. The same provision is made practically with regard to this new section in the proposed Bill.

Hon. Mr. CALDER: How is that notice given to each agency?

Hon. Mr. GUTHRIE: By circular accompanying the tariff posted up in the office. There are penalties for not posting.

Hon. Mr. GORDON: I understand that sometimes when these notices go out to the different stations they do not refer to the specific action that is to take place other than by referring to tariff rate so and so.

Hon. Mr. GUTHRIE: That is true. They refer to the tariff rate under number and the article to which it applies, together with the changes as made.

Hon. Mr. GORDON: Let me give a specific instance so you will know what I mean. Not so long ago a certain rate was being revised upward. I understand that after the notices are sent out you have thirty days in which to file objection with the Board.

Hon. Mr. GUTHRIE: Yes.

Hon. Mr. GORDON: In this certain case which I have in mind such a notice was posted up in the station, but in such a way that no one paid any attention to it, and if it had not been for the fact that the attention of a certain party was called to it the rate would have been applied. So I think when these notices are sent out they should state exactly what is proposed to be done, instead of referring to a tariff. I contend that the commodity affected should be mentioned.

Hon. Mr. GUTHRIE: The Act provides for pretty good notice. A company must post up in a prominent place at each of its stations where passenger or freight are received for carriage a notice in large type directing public attention to the place where the passenger or freight tariffs respectively are kept and filed for public inspection during business hours.

Hon. Mr. GORDON: It is not done in accordance with that regulation.

Hon. Mr. GUTHRIE: Then the railway company has been guilty of a breach of this regulation and is subject to a penalty if any complaints are made. No complaints have been made during my time with the Board.

Hon. Mr. CALDER: Mr. Gordon's point is this, that the notice posted up in large type may read: Application is made to change tariff No. so and so from \$1.40 to \$1.20. No one knows what commodity is affected.

Hon. Mr. GUTHRIE: Oh, yes, the tariff item appears on the notice.

Hon. Mr. CALDER: Does it say whether the article is wheat, fish, or whatever it may be?

Hon. Mr. GUTHRIE: Yes, and the classification too. Anyone interested can get the fullest information at the stations unless the railways are guilty of breach of the regulation. At least 90 per cent of persons going to a railway station do not notice these things. I agree that only shippers pay attention to such notices.

Hon. Mr. BLACK: The shipper of any class of goods is always interested in the carrying charges.

Hon. Mr. GILLIS: Is the commodity described?

Hon. Mr. CALDER: If the commodity is described, it is all right; but if the notice only mentions the tariff, I think it is all wrong.

Hon. Mr. GUTHRIE: All prominent shippers not only have the opportunity of seeing the notice posted up at the station, but a copy is sent to them through the mails.

Hon. Mr. GORDON: That is not always done.

Hon. Mr. GUTHRIE: It is not required by the Act, but it is done as a matter of courtesy. All large shippers get notice in this way. At any rate, all the publicity required by the Railway Act is given, and it is pretty full.

Hon. Mr. CALDER: Perhaps we had better change the Act.

Hon. Mr. GUTHRIE: You can do that. With regard to the section of the new Bill, practically the same provisions apply, but where an agreed charge has been made between a shipper and a carrier it has to receive approval of the Board. That is provided by section 22, subsection 3.

Then subsection 4:

On an application to the Board for the approval of an agreed charge:—

(i) any trader whose business will be unjustly discriminated against if the agreed charge is approved and is made by the carrier, or that whose business has been unjustly discriminated against as a result of the making of the charge by virtue of a previous approval; and

(ii) subject to the provisions of the next succeeding section, any representative body of traders,

Boards of Trade and the like.

(iii) any carrier of the same class shall, after giving such notice of objection as may be prescribed by the Board, be entitled to be heard in opposition to the application.

(5) Any trader who considers that his business will be unjustly discriminated against if an agreed charge is approved and is made by the carrier, or that his business has been unjustly discriminated against as a result of the making of an agreed charge, may at any time apply to the Board for a charge to be fixed for the transport of his goods (being the same goods as or similar goods to any goods to which the agreed charge relates) by the carrier with which he contracts for the transport of such goods, whether the same carrier by which the agreed charge is proposed to be made or is being made, or another carrier of the same class; and, if the Board is satisfied that the business of the trader will be or has been so unjustly discriminated against, it may fix a charge (including the conditions to be attached thereto) to be made by the carrier (being engaged in the same class of transport, being transport by rail, highway, water or air, as the case may be), with which he contracts for the transport of such goods as the Board may determine.

(6) The Board, in fixing a charge, may fix it either for such period as it thinks fit or without restriction of time, and may appoint the date on which it is to come into operation, but no such charge shall be fixed for a period in excess of that for which the agreed charge complained of by the trader has been approved.

The next subsection deals with procedure, and by subsection 8 the Board may withdraw its approval of a former agreed charge on the application of anyone who objects.

I think the provisions in this Bill in regard to shippers who feel aggrieved or discriminated against are pretty ample. I do not know exactly how they will work out, but I think the powers and opportunities given to the shippers are adequate.

Hon. Mr. CALDER: Do you think the notice is sufficient?

Hon. Mr. GUTHRIE: I think it is to anybody interested—not to the general public; they pay no attention.

Hon. Mr. GORDON: What you say is all very well, Mr. Guthrie, but my contention is that sufficient and proper notice is not given as it should be.

Hon. Mr. GUTHRIE: I do not see how you can overcome that unless you put an advertisement in the newspapers, or something of that kind.

The CHAIRMAN: That probably would be a good idea, to advertise in the leading newspapers.

Hon. Mr. GORDON: In the case of the application for rate revision to which I have referred, the principal shipper did not know anything about the application until within a few days of the hearing.

Hon. Mr. GUTHRIE: He can apply to the Board.

Hon. Mr. GORDON: Yes; but the point I am trying to make is this, that sufficient notice is not posted up at the points where those concerned can see it.

Hon. Mr. CALDER: Your shipper was asleep then.

Hon. Mr. GORDON: He was not asleep.

The CHAIRMAN: At present notice is posted up at every station where shippers are supposed to go in and out doing business. If that is not sufficient notice, what would you suggest?

Hon. Mr. GORDON: That is the proper thing to do, but in this particular case it was not done.

Hon. Mr. DANDURAND: That is a special grievance which can be cured otherwise.

Hon. Mr. GORDON: Of course, it is a special case, but I want to emphasize that the Board should see that the regulations are carried out.

The CHAIRMAN: Anything else?

Right Hon. Mr. MEIGHEN: Mr. Guthrie, under this Bill in respect, say, of grain from Fort William to Cornwall or Montreal, a schedule of rates must be submitted to the Board for approval. But if some transporter of grain from the head of the lakes is able to arrange a special rate with a shipping company, that special rate cannot take effect, even for a single voyage, until approved by the Board.

Hon. Mr. GUTHRIE: I think there is another clause which gives them the right.

Right Hon. Mr. MEIGHEN: I do not say it should not be done, but I mean it is impracticable; you cannot possibly do it.

Hon. Mr. HOWE: Of course, the Board would have power to regulate the type of contract to be made, and I do not think they would allow, for instance, a contract for a single voyage.

Right Hon. Mr. MEIGHEN: Then you will not be able to have these special arrangements for special shipments.

Hon. Mr. HOWE: No, I do not think so; that is not the intention; but a shipper might contract with a line to carry all the grain shipped that season. We have there the shipper-owner—grain companies that own their own lines of boats. They could make their own contracts with their own boats. But that is all subject to the Board of Railway Commissioners.

Right Hon. Mr. MEIGHEN: That is to say, if a company at the head of the lakes owns a line of elevators and is a grain dealer—as I know one is on a big scale—it can fix its rates on its boats irrespective of the Board?

Hon. Mr. HOWE: Not irrespective, but it can make a contract with itself and submit the contract to the Board. Then if approved, that is the contract.

Right Hon. Mr. MEIGHEN: Applicable to its own grain.

Hon. Mr. HOWE: Quite.

Right Hon. Mr. MEIGHEN: The company might get a great advantage there.

Hon. Mr. HOWE: It comes out of the other pocket.

The CHAIRMAN: If the grain gets the advantage the ship loses it.

Right Hon. Mr. MEIGHEN: That is true; but the company gets the advantage both on the grain and on the rate over its competitor.

Hon. Mr. BLACK: If a man owns the ship and the cargo he can carry the cargo at whatever rate he likes.

Hon. Mr. HOWE: No, he must apply the rate approved of by the Board.

The CHAIRMAN: He can take his jack-knife out of one pocket and put it into the other.

Hon. Mr. BLACK: Yes, he can charge so much to the traffic and so much to profit.

The CHAIRMAN: Anything else, Mr. Howe?

Hon. Mr. HOWE: This regulation is applied to brokers. They perhaps play an important part in breaking down rate schedules. That is their business. They take a contract to move a commodity and then they will shop it around among the carriers to obtain the lowest possible rates. The Bill provides they shall not accept business at less than the rate approved by the Board.

Right Hon. Mr. MEIGHEN: They will virtually have nothing more to do.

Hon. Mr. HOWE: I would not say that. At least it brings them under regulation, which I think is important.

Hon. Mr. BALLANTYNE: How are the members of the Board going to arrive at what would be a proper rate under certain conditions? They will have a multiplicity of rates submitted to them. How will they come to a final judgment?

Hon. Mr. HOWE: Exactly as they do now, I think, on railway rates, that is, they will hold a hearing, sort out the various applicants and approve one of the rates submitted, which will be the rate applied to the others.

Hon. Mr. BALLANTYNE: And all the others would have to abide by that rate?

Hon. Mr. HOWE: Yes, as approved.

The CHAIRMAN: Is there anything else you want to ask the Minister?

Hon. Mr. ROBINSON: I would like to ask one question. The Minister said he thought the time would come either to abandon—perhaps he did not use that word—the regulation of the railways, or else to regulate all kinds of traffic. I was wondering whether he had any idea at all that it might be a good thing to abandon this regulation.

Hon. Mr. HOWE: I think not. I think the forces that worked to bring about regulation in the first place will justify it to-day.

Right Hon. Mr. MEIGHEN: The answer to that is that there is no competition for certain sections and at certain times, and that if there is no regulation the railways can do what they like.

Hon. Mr. CALDER: The public will not let you abandon.

Right Hon. Mr. MEIGHEN: Wheat, in the winter time, would be at the mercy of the road.

Hon. Mr. ROBINSON: I have heard of many cases in the past in which the railways have lost good business because they did not seem to have the power to act promptly.

Hon. Mr. BLACK: I can name instance after instance of that.

The CHAIRMAN: That is a matter that I should think might well be brought to the attention of the railway companies.

Hon. Mr. HOWE: I think the Chairman of the Railway Board will be very helpful to you. He knows the background of regulation over many years, and I think that other point, perhaps, can be reviewed as well.

Hon. Mr. MULLINS: Did the Minister give any consideration to the question of giving Manitoba the old time freight rates that were taken away in 1917? You are indebted to Manitoba for thirteen years, from 1917 to 1930.

Manitoba made a contract with the railways that it should have control of rates on all commodities from Manitoba to the head of the lakes. We had a ten cent rate. I want to say for the benefit of the Minister that no farmer can exist under the present rate structure. I know the railroads are not making any money, but we had control of rates in the old days, and this was taken away in 1917. That control ought to be reinstated and given back to the province. It was taken away as a war measure. No man can exist on the land to-day—I am talking from experience—under the present rate structure.

Jim Hill one time went out to see what was wrong with Montana and the country to the west of him, and when he came home the only way he could keep the men on the land was to cut the rates in half.

As to the lake structure, I am a little doubtful that it will mean two or three cents a bushel more to a man on his wheat. I would be a little afraid of it costing the farmer more money for his wheat.

Hon. Mr. HOWE: Fortunately the Minister does not make the rate.

Hon. Mr. MULLINS: But you have something to say with the Board.

Hon. Mr. HOWE: Oh, no. I am accused of it, but I do not do it.

The CHAIRMAN: The Minister would not get very far if he went monkeying with the Chairman of the Board.

Hon. Mr. HOWE: I think Mr. Guthrie will give me a clean bill of health.

I want to thank you, gentlemen, for listening to me so patiently. As I say, this is a very difficult Bill, but I am sure it will receive your best consideration. The Government sent it here because it felt that you would listen to the representations of the interested parties and give it your best business judgment, and we look for a very constructive review of the Bill.

The CHAIRMAN: This Committee is hard boiled, but you may rest assured that it will give its best judgment on this Bill, as it does with respect to all bills. We have no other object to serve than to get out of a bill what is good, if there is good in it. There is no individual or set of individuals in the Senate, or in the Committee, which has any consideration other than to make the legislation as workable as possible.

Hon. Mr. HOWE: I may say that my department is greatly indebted to this Committee for the work it did on the Shipping Bill. That measure has been in operation for several months, and there has been no disturbance.

The CHAIRMAN: Was it ever all proclaimed?

Hon. Mr. HOWE: Oh, yes.

Hon. Mr. BALLANTYNE: Coastwise too?

Hon. Mr. HOWE: Yes, every part of the Shipping Act was proclaimed and is in operation.

The CHAIRMAN: Are there any more questions?

Hon. Mr. BALLANTYNE: I want to compliment the Minister on many things, particularly upon the fact that the rates of all harbours, in case of dispute, are to be referred to the Railway Commission. There has been a variation from coast to coast, and I think the provision in the Bill is an excellent one.

The CHAIRMAN: Gentlemen, we will meet this afternoon after the conclusion of Senate business.

The Committee adjourned until after the Senate rises.

AFTERNOON SITTING

The Standing Committee on Railways, Telegraphs and Harbours, to whom was referred the Bill B, an Act to establish a Board of Transport Commissioner's for Canada, with authority in respect of transport by railways, ships, aircraft and motor vehicles, resumed this day at 3.40 p.m.

The CHAIRMAN: Who is to be heard this afternoon?

Right Hon. Mr. MEIGHEN: The airways.

The CLERK OF THE COMMITTEE: Mr. A. Roy Brown, representing General Airways Limited, and United Air Services Limited, Toronto.

The CHAIRMAN: Go on, Mr. Brown.

Mr. BROWN: Mr. Chairman and gentlemen, at the meeting this morning it appeared that nobody was prepared to attend and make any representations at your meeting this afternoon. We have not had sufficient time to prepare any written brief to present our views, but we have gone over the Bill as carefully as time permitted, and there are certain questions we would like to present for clarification or consideration, dealing particularly with Part III on page No. 6. Clause 9 reads:

The provisions of the Railway Act relating to tolls and tariffs and joint tariffs and the making of returns and the filing of statistics—

Stopping there for the moment. Aircraft operators to date have had no close acquaintance with the Railway Act, and are not conversant with the returns and statistics that it would be essential to make to comply with this provision of the Act. I might say the aircraft operating industry is chiefly in the north country, in co-operation with mining, and it has been necessary for us to keep our rates down to a minimum, particularly in the earlier stages, where a prospector is going out to attempt to discover potential mining ground; and then, later on, in the stage where they think they have ground that is more than rock. At that time they need to have their costs down to the lowest possible figure. We are not conversant with what returns and statistics it will be necessary for us to file to comply with the Railway Act, or if they are of such a nature that we will have to have fairly large statistical departments which would necessitate increasing our rates to cover that cost. At the present time the prospector and miner are at us all the time to get prices down. We have been doing that through increasing volume, but this might mean increasing cost. We would like to have some idea what would be required of us to fulfil this section.

The CHAIRMAN: That, Mr. Brown, is the nightmare of every man in business in Canada to-day—keeping books for the Government.

Mr. BROWN: We have had to do a certain amount of that, sir, but we do not wish it to get too cumbersome and onerous.

The CHAIRMAN: All right. Proceed.

Mr. BROWN: May I get any information on that point?

Right Hon. Mr. MEIGHEN: How would it be to go ahead and get all the answers at once when you are through?

The CHAIRMAN: Mr. Brown is complaining, first, that this Bill if put into operation may result in a multiplicity of returns such as are made by the railway companies, which would mean a material increase in the cost of operation.

Hon. Mr. CALDER: He wants to know what is the nature of the return. Send him a copy of it.

Mr. SMART: They are making returns now.

[Mr. A. Roy Brown.]

Mr. WILSON: Each company makes an annual return to us of their traffic, the number of tons of freight, the number of pilots employed, the licensed mechanics employed, and other details, in order that there may be some idea of the extent of the industry. We have to have in conjunction with that the operators' statistics, and this year have provided a form, and they are combining it with certain information about their capital expenses and financial standing. So, instead of having to make two returns they will make a combined return.

Hon. Mr. GRIESBACH: How often are these returns made?

Mr. WILSON: Once a year.

The CHAIRMAN: Mr. Brown is afraid that you will be saying that these will be returns similar to those which the railways make, and that their work will be increased.

Mr. BROWN: I should like to know as to that.

The CHAIRMAN: The Railway Act says this at section 437:

Every railway, telegraph, telephone or express company that fails or neglects to prepare and furnish to the Board within such time and in such manner and form, and in accordance with such classifications, and with such particulars and verification, as by or under this Act are required or intended,

- (a) any return of its capital, traffic and working expenditure, or of any other information required as indicated in the forms for the time being required by the Board; or
- (b) any monthly return of its traffic in accordance with the forms for the time being required by the Board, if such monthly return is required by the Minister; or
- (c) any other information which may be from time to time required by the Board under this Act;

shall incur a penalty—

and so on. I suppose the information required depends on the Board. The Railway Act does not seem to fix anything.

Mr. BROWN: So that at the discretion of the Minister it may be increased or decreased as deemed advisable?

The CHAIRMAN: Not the Minister, the Board. You are not under the Minister.

Mr. BROWN: Then, in the same section it says:—

—and any trader or person engaged in transport by air contravening or failing to comply with any such provision shall be guilty of an offence and liable on summary conviction to a fine not exceeding one thousand dollars and not less than one hundred dollars.

Will that come before the Board, and will the Board decide that there has been a failure to comply? Who decides as to the failure?

Hon. Mr. PARENT: It means that there has to be resort to a court to get a conviction.

Mr. BROWN: Well, that is perfectly satisfactory.

Section 10 says:—

The Minister may license aircraft to transport passengers and goods between points or places in Canada or between points or places in Canada and points or places outside of Canada.

A large number of routes have been established where there is a regular service operating to-day that may be termed interurban service. For example, General Airways Limited are operating four services per day each way between Noranda and Valdor.

Right Hon. Mr. MEIGHEN: Where is Valdor?

Mr. BROWN: Valdor is just east of Siscoe lake.

Right Hon. Mr. MEIGHEN: In Quebec province?

Mr. BROWN: Yes, sir.

The CHAIRMAN: What would the distance be?

Mr. BROWN: About 100 miles, sir.

Right Hon. Mr. MEIGHEN: I do not see how that could come under this Bill at all.

Mr. SMART: The regulation of the air service is a Federal matter.

Right Hon. Mr. MEIGHEN: Under the aviation system?

Mr. SMART: Yes.

Mr. BROWN (Reading):

The Minister may license aircraft to transport passengers and goods between points or places—

Now, we have been operating there for a number of years, and it seems to me that according to the Act the Minister may, if he wishes, refuse to permit us to continue operation. Is that correct, sir?

Mr. SMART: The Minister now has the right to license you. You have been allowed to operate in that north country without licences.

Mr. BROWN: As a matter of fact, Mr. Smart, when we started it was not an interurban service, and the towns of Valdor and Bourlamaque have built up by reason of the service we established.

Mr. SMART: Quite so.

Mr. BROWN: As I read the Bill, the Minister may, at his discretion, stop us at any time.

Mr. SMART: There is no intention of interfering with that northern operation, because it is not a really permanent thing. It may be running for a year or two, and then the whole character of it may change. There has not been any attempt to put any restrictions on until the situation is crystallized. The immediate question is the Trans-Canada Airways more than anything else, and there will not be any arbitrary action taken to put out of business people who are working in that north country.

Mr. BROWN: It was just my reading of it.

Mr. SMART: Unquestionably the power is there to enable the Minister to license.

Hon. Mr. CALDER: It is there now.

Mr. SMART: Yes. Without this Act the Minister could refuse to give you a licence to operate between those two towns, but there is not any intention on the part of the Minister to take that right from you. That north country is in the development stage, and there is no intention of interfering until we know more about it.

Right Hon. Mr. MEIGHEN: Mr. Smart has indicated that the proposal is that the Board shall have control of tolls and tariffs, in the same way that it has with respect to railways under the Railway Act. But the Minister will have control of licences.

Mr. SMART: Yes.

[Mr. A. Roy Brown.]

Right Hon. Mr. MEIGHEN: Whereas those of the railways are under the Railway Act.

Mr. SMART: That is quite true. The present Aviation Act authorizes the Minister to license.

Right Hon. Mr. MEIGHEN: But when tolls and tariffs are controlled in one place, would it not be better to have the licensing there too?

Mr. SMART: Well, Mr. Meighen, you are going to get into a duplication of staff, because this system of licensing is not the only thing the Airways Department is up against. There is the inspection and examination of pilots, the issuing of certificates; there are all sorts of specifications as to the type of loads that machines can carry, and a thousand and one things. The attempt there is to put the control of rates under a judicial body, and to leave matters of administration in the administrative department.

Mr. BROWN: Subsection 4, of section 10 reads:—

The Minister may in the licence prescribe the route or routes which the aircraft named therein may follow and the schedule of services which shall be maintained.

Mr. Smart says, as I understand it, that this is not going to be applicable to northern flying. If that is the general interpretation of the Act, then there is no point in my referring to it, because at the moment we are only interested in northern flying. So far as northern flying is concerned, I might say it is going to be some years, probably, before the Trans Canada is going to have the same volume of traffic either in pounds of express or passengers as the northern area operators are carrying to the mining areas now. If our mining continues to develop as it has been, we are going to lead the Trans Canada for some time to come, apparently.

Right Hon. Mr. MEIGHEN: Apparently your routes have to be changed from week to week, have they?

Mr. BROWN: Yes.

Mr. SMART: That is one of the difficulties in that northern situation to-day. There is no permanency to it. The situation is entirely new and uncrystallized. Section 12 says:

This Part shall not come into force in, or in respect of, any part of Canada until proclaimed by the Governor in Council to be in force in, or in respect of, such specified part of Canada.

(2) The Governor in Council may by regulation exempt any aircraft or class of aircraft from the operation of this Part.

Mr. BROWN: Well, on this particular route that I have been referring to we have been operating a scheduled service now for over five years. I do not know whether you would call that permanent, but it has been fairly regular during that time. That is getting close to an established service, I should think.

Mr. SMART: Will not the operation of this Act have a tendency to protect you in what you have got?

Mr. BROWN: I hope so.

Mr. SMART: If we do not have the right to license, then Tom, Dick and Harry will be able to come in on top of you.

Mr. BROWN: I agree with you there. We are having that all the time. But what I was wondering was whether on this route we would be able to land where traffic demanded at the time, with variation, or whether we would be required to stop at certain places regularly regardless of traffic demands.

Mr. SMART: I do not think you need worry about that sort of thing. When we find out the situation, the conditions that appertain in the region where the operations are carried on will be taken care of in connection with the licensing.

Hon. Mr. PARENT: Are you suggesting, Mr. Brown, that you should have a monopoly of the traffic up there?

Mr. BROWN: No, sir, not necessarily. We have never had that idea.

Hon. Mr. PARENT: Have you that in mind?

Mr. BROWN: No.

Hon. Mr. PARENT: In that territory there I presume you already have a landing place, have you?

Mr. BROWN: Yes.

Hon. Mr. PARENT: Are you satisfied with it?

Mr. BROWN: Yes.

Hon. Mr. PARENT: Have you a right from the provincial government to land there or have you purchased the property?

Mr. BROWN: We land on the lake at Sullivan. We have built our own dock there at our own expense and put up our own building on the dock for the comfort of our passengers. I may say that our passengers use that and our competitors step right in and take our passengers out of our own building. There is keen competition.

Hon. Mr. PARENT: You are rendering a good service, no doubt about that.

Mr. BROWN: Thank you, sir.

Subsection 2, of section 11, on page 7, says:—

If any goods or passengers are transported contrary to the provisions of this Part or otherwise than in accordance with the terms of the licence of the aircraft, the owner or other person operating the aircraft shall be liable upon summary conviction to a fine not exceeding five hundred dollars and not less than two hundred dollars, and every aircraft by means of which goods or passengers are transported contrary to the provisions of this Part shall be subject to forfeiture as hereinafter provided.

That again is a matter that must be dealt with in court, I presume.

Right Hon. Mr. MEIGHEN: Yes. It seems to me that the person operating should not be liable. Should not the owner alone be liable?

Mr. BROWN: As Mr. Smart mentioned, sir, this industry is relatively new. Our pilots are licensed by the Department and authorized to fly aircraft. The only control we have over them is in the fact that they have their commercial or transport licence, as the case may be. We know them and trust them with one of our aircraft, aircraft that may be valued at anything from \$20,000 to \$40,000. Aircraft are pretty expensive here in Canada, with the duties on them. The pilots leave from a base, and the minute they do so we have no control over them, so far as the company is concerned, other than what I have mentioned. Now, if they make a breach of air regulations, which the company does not condone or approve of, it seems a bit of a hardship that the company should be responsible for such breach. Of course, it would be my feeling that if the company condoned or approved of the breach, the pilot should not be responsible at all, the company alone should be responsible. But in the case of a breach, a technical breach, of which the company has no knowledge, it seems rather unfair that the company should be held responsible.

The CHAIRMAN: How would that theory apply in regard to automobiles? If my chauffeur, whom I trust, runs amuck with my car, I have to settle for any damages.

[Mr. A. Roy Brown.]

Mr. BROWN: Quite true, sir. But in the case of a technical breach I do not think the company should be responsible, where there has been no injury to anyone. Then, dealing with the question of rates and errors in quoting rates, a pilot in taking a prospector out to look over a new area may circle the area, may wait for a day and give the prospector a day's free service of the aircraft, which he should not do; and he may come back and report that the weather was such that he could not take off. You simply have no control over that at all. But if that causes a breach of the Act, as it really should do, then the company is responsible.

Mr. SMART: May I interject here that section 11 states:—

No goods or passengers shall be transported by air in Canada by means of any aircraft other than an aircraft licensed under this part.

This thing refers to the rate situation under the control of the Board. As it is now, for instance, pilots are responsible for seeing that their machines are not overloaded. If one of our inspectors catches an overloaded aircraft the pilot is grounded, he is personally responsible. That is so that pilots will not overload their individual craft. I should take this particular clause to refer more to the charging of rates.

Mr. BROWN: That is just exactly the point I am making.

Mr. SMART: Well, if it is a breach in connection with the charging of rates, then the owner is really the responsible party.

Mr. BROWN: In most cases in actual practice, so far as our company is concerned, in dealing with occasional and transient business and special business, the pilot sets his own rates with the prospector or traveller.

The CHAIRMAN: He is really the agent of the company. He must be the agent, in making those rates.

Mr. BROWN: Yes, sir. That does not refer to schedule service. Where a prospector is going into an area, in many cases he will not disclose exactly where he wants to go, because he does not wish other prospectors to know where he thinks good prospecting territory is. He will tell you only within fifty miles of where he wants to go, and you have to take him there and set a rate to cover that. The pilot is the only one who will know where he left that man. It is in a case like that, where the pilot may make an infringement of the rate structure, that I am concerned about the company's responsibility.

Subsection (3) of section 11, page 7, says:—

The Collector of Customs at any port or airport in Canada may, if he believes that an offence has been committed against this Part, detain the aircraft pending the disposition of any complaint or charge and the payment of any fine imposed in respect of such offence.

I should like to know roughly how long that procedure might take. I do not want to give the impression that I am advocating the abandonment of rate control structure. I am entirely in favour of a rate control structure, and I think the industry needs it in the very worst way at the present time. But I also think that we want to get it in such a way that it will not hamper the industry. Right now I know of an aircraft which has been reported to me by an official of the Customs Department as grounded and seized by the Department for not coming into Canada properly, yet that aircraft is still in operation. I was just wondering how long it will take this Department to act and stop a man. The point I have in mind is this: a rate structure is set up, which everybody agrees is fair and equitable, and I tell every employee in our company, "You have got to live up to that rate exactly." Supposing a competitor comes in and makes a quotation lower than that rate. We lose business. We complain. In the meantime he carries on. How long will it be before he is stopped?

The CHAIRMAN: I suppose there will be a penalty for doing it.

Mr. BROWN: Yes, sir, that is prescribed here.

The CHAIRMAN: Then if he goes on there will be another penalty imposed. You mean he can keep on doing it until penalized?

Mr. BROWN: Yes. In the meantime he has done the business and we have lost it by adhering to the rates. We are in that position now so far as that particular aircraft I have referred to is concerned. The operator is going on and can quote lower rates. The customs officials told me the aircraft is officially seized, but he is still operating it.

The CHAIRMAN: I do not know whether we have any person here from the Customs Department to tell us about that.

Hon. Mr. DANDURAND: I thought you were leading up to the point of complaining that your aircraft was being detained too long.

Mr. BROWN: No. I do not object to that if we commit an offence; but I do not want the competing operator to be able still to continue for an indefinite period at lower than the schedule rates without anything being done about it. That is my point.

The CHAIRMAN: Has the operator of the other company been condemned and punished?

Mr. BROWN: No, the case is still pending.

The CHAIRMAN: You think the trial is being delayed too long.

Right Hon. Mr. MEIGHEN: I notice here the cancellation of the licence is under the Board, and the granting is under the Minister. I cannot help but think you have taken the more awkward instead of the simpler way.

Hon. Mr. DANDURAND: I suppose the licensing means profit to the Treasury.

Right Hon. Mr. MEIGHEN: The Treasury ought to get it anyway.

Hon. Mr. HORNER: I understood that anything seized by the Customs Department was held until the disposition of the case.

The CHAIRMAN: Mr. Brown is complaining that not only is the aircraft not being held, but it is being operated. Would not that matter lie with the Customs Department

Mr. SMART: Of course it is a customs matter pure and simple.

Mr. BROWN: The only reason I mention that, sir, is that we have had no experience with the Railway Board. I thought that was one instance of an infringement of the rules of a Government Department, and I was just judging that as an example of the time element.

Mr. SMART: The Collector of Customs has nothing to do with the Board of Railway Commissioners.

Mr. BROWN: I appreciate that.

Mr. SMART: Any infraction under the Customs Act gives the Collector of Customs a right to seize the machine. The matter has nothing to do with the Board of Railway Commissioners.

Mr. BROWN: As I have said, my only reason for mentioning the matter is that it is an example of the time element involved in departmental action.

Hon. Mr. ARTHURS: Who seized this particular plane which you speak of, the Customs Department or the Railway Department

Mr. BROWN: The Customs Department was supposed to have seized the plane, but it is still working—or was until recently.

Now I come to page 10 of the Bill. I wish to deal with part VI. Section 22, subsection 2, provides:

Particulars of an agreed charge shall be lodged with the Board within seven days after the date of the agreement, and notice of an application to the Board for its approval of the agreed charge shall be given in such manner as the Board may direct.

[Mr. A. Roy Brown.]

May I inquire how the basis of these charges is going to be set? That, I can see, will cause a great deal of difficulty, for the reason that operating costs vary in different areas. In one area the aircraft operator has to pay highway tax on his gasoline; in another area he pays that tax and gets a drawback; in one area the basic price of gas is higher than in another area. Our gasoline prices are a very high element of our costs. There is also a variation in cost according to the particular type and size of aircraft in operation. Aircraft operators as a whole would very much appreciate sitting in with the Board and assisting as far as possible in arriving at a fair rate, for it is going to be a very difficult matter to agree upon.

Right Hon. Mr. MEIGHEN: It can of course vary with localities.

Mr. BROWN: Yes, sir, it does distinctly.

Right Hon. Mr. MEIGHEN: Could you give us a break-down of operating costs of aircraft, showing what percentage is covered by oil and gasoline, what by depreciation, what by interest and capital costs, and so forth? It would be very useful to us.

Mr. BROWN: I could not give that break-down to you right offhand. If I were in my office I could give the information at a moment's notice. I can get it for you.

Right Hon. Mr. MEIGHEN: I think it would be useful.

The CHAIRMAN: You can send us a copy.

Right Hon. Mr. MEIGHEN: You are in Ottawa, are you not?

Mr. BROWN: No, sir. Most of our operations are in northern Quebec and northern Ontario. We have our head office in Toronto, but I shall be very glad to come here at any time and assist in any way I can.

Hon. Mr. PARENT: Mr. Brown, does it happen occasionally that you have to arrange a rush trip of some kind? For instance, you may be required this afternoon to start to-morrow on a trip. How under those circumstances could you make an agreement seven days in advance under the procedure provided by the Board of Railway Commissioners?

Mr. BROWN: That is just the point I was coming to, sir. In many, many cases dealing with injured men in the Quebec area, which is highly settled compared with ordinary bush country and enjoys an efficient telephone service, we may receive a call that they have an injured man at Lamaque, for instance, and asking us how soon we can pick him up at the Sullivan dock. We answer that we will be there in twenty minutes or an hour, as the case may be. The man is kept as comfortable as possible at Lamaque until we are ready to pick him up at the dock and take him to the nearest hospital, which is at Amos. There can be no previous definite arrangement with respect to trips of that kind. In the case too of prospectors going into new areas you never know when they are coming. Suppose a prospector wants to get in right away—and he usually does—you have to quote him a rate. The prospective trip covers an area in relation to which probably there is no record of any one moving in before. The prospector cannot wait until you have sent in your rate to the Board for approval and been told that it must be so and so. In order not to hamper the industry there will have to be some elastic left in there which will permit us to go ahead and carry a mining man wherever he wishes to go in a new area.

Hon. Mr. CALDER: Mr. Brown, don't you think that is a matter which will be taken into consideration by the Board of Railway Commissioners?

Mr. BROWN: Yes, sir, I truly do.

Hon. Mr. CALDER: You have referred to all sorts of conditions which may prevail in that northern country. We cannot deal with those conditions in the Bill itself; we can only direct the Board to make such rules and regulations with respect to that particular area so that you may be taken care of.

Mr. BROWN: That is exactly why I spoke about it.

Hon. Mr. GUTHRIE: There is an emergency regulation of the Board now to deal with those cases which you speak of. The regulation reads:—

To provide for the prompt shipment of any freight which may unexpectedly offer, and for which no suitable tariffs have been prepared, on condition that the filing and publication of such tariffs be immediately proceeded with, except where special notice has been issued to cover an individual consignment and the rate is not of a permanent character.

All you have to do is make your rate and file it.

Mr. BROWN: All I have to say, sir, is that I am not conversant with the Railway Act.

Hon. Mr. GUTHRIE: This is a regulation passed under the Railway Act.

Mr. BROWN: Thank you, sir.

May I call attention now to subsection 11 at page 12:—

On any application under this section, the Board shall have regard to all considerations which appear to it to be relevant and, in particular, to the effect which the making of the agreed charge or the fixing of a charge is likely to have, or has had, on—

(a) the net revenue of the carrier.

That particular point has already been referred to in what I have said as to the rate structure. I think it very advisable in the best interests of the industry that the aircraft operators should have an opportunity when the rate structure is being set to sit in with the Board and explain their problems, their difficulties, and their requirements if they are to continue as operators.

That is all I have to say, sir.

Hon. Mr. ROBINSON: Mr. Brown, do you get any subsidies?

Mr. BROWN: No, sir.

The CHAIRMAN: Does anyone else desire to ask Mr. Brown a few questions?

After discussing the matter with the Minister and the officers of the Department I reached the conclusion that this Bill will meet a lot of new conditions, particularly in regard to aircraft, and that those conditions will have to be dealt with in a reasonable spirit by way of regulations.

Now for something of personal interest. Mr. Brown was responsible for bringing down von Richthofen, the German ace. I have called your attention to his exploit during the war in order that you might know what kind of man you have been listening to. It seems to me that such a man will run his aircraft all right, anyway, whatever the other fellows may do. Is there any person else?

Mr. BROWN: There are two other aircraft companies represented here.

The CHAIRMAN: The Clerk of the Committee says we have arranged a day for the Canadian Airways to come from Winnipeg. Does that include these people?

The CLERK of the COMMITTEE: Their traffic manager is not here.

The CHAIRMAN: Is there anything you would like to say anyway?

Mr. STARRETT: I think Mr. Brown has covered the situation, sir.

The CHAIRMAN: Is there anybody else to be heard on the airways? Does any person wish to say anything on any phase of the Bill?

Hon. Mr. CALDER: I suggested this morning that we should run through the Bill hurriedly.

The CHAIRMAN: Very well. If no person else wants to say anything, we will go back to the beginning of the Bill.

Hon. Mr. BALLANTYNE: Mr. Chairman, I am sure that all the members of this Committee thoroughly appreciate the kind courtesy of the Minister in appearing before us this morning and so fully explaining the cardinal principles of the Bill. At the time when the Minister was addressing the Committee I

[Mr. A. Roy Brown.]

had not had an opportunity of reading the Bill. When the Minister came to Part V, section 19 of the Bill, I was particularly interested and paid very close attention to his remarks, which were as follows:—

There are one or two other clauses that, perhaps, might be of interest. Part V gives the Board power to review harbour tolls. It applies only to the national harbours and properties owned by the Government. The difficulty we have now is that we are both operators of the harbours and the rate-fixing body. We apply a rate, objections are taken and we are in the position of interested parties in that we are interested in the revenues. We believe it would help our administration greatly if any rate could be subject to review by a judicial board. Then if we install a rate and protests are made, instead of the matter coming to us, interested parties, it could be brought before the Railway Board. We would have to make our case, the user of the dock would make his case, and the Board would give a ruling.

Then, in reply to the question of the Chairman, "Just as with a railway?" the Minister said, "Yes, much the same."

Later in the proceedings I made the following remarks:—

I want to compliment the Minister on many things, particularly upon the fact that the rates of all harbours, in case of dispute, are to be referred to the Railway Commission. There has been a variation from coast to coast, and I think the provision in the Bill is an excellent one.

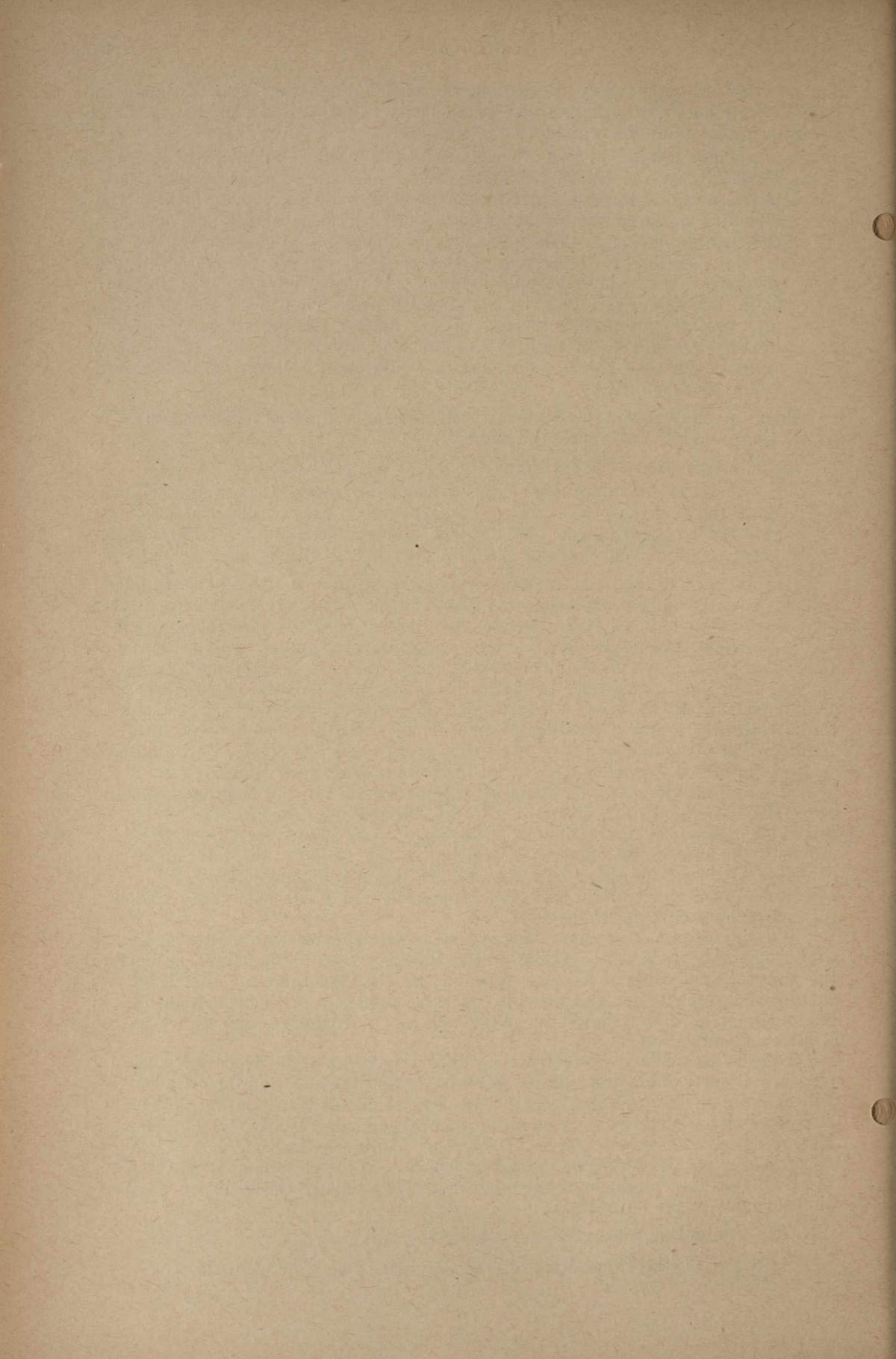
I desire now to say that I certainly got the impression from the Minister's remarks that, when any objection was raised in regard to any harbour toll after the rates had first of all been prepared by the various port managers, referred to the National Harbours Commission, and finally approved by the Minister and Governor in Council, should necessity arise owing to a complaint in regard to those rates and a reference be made to the Railway Commission the decision of that body would be final, subject to the approval of the Governor in Council. I find, however, from a reading of part V of the Bill, that if any interests affected desire to make any complaint with regard to rates being discriminatory, or too high or too low, they first of all have to register such complaint with the Minister of Transport, and he alone will decide whether or not the matter should be referred to the Railway Board. If the Minister decides to refer it to the Board of Railway Commissioners, after they have heard all the contentions pro and con and finally come to a decision in the matter, it is referred to the Minister "for such action as he deems fit," to use the language of the Bill. The Minister may decide to take no action whatsoever, in which case those who laid the complaint would get no decision.

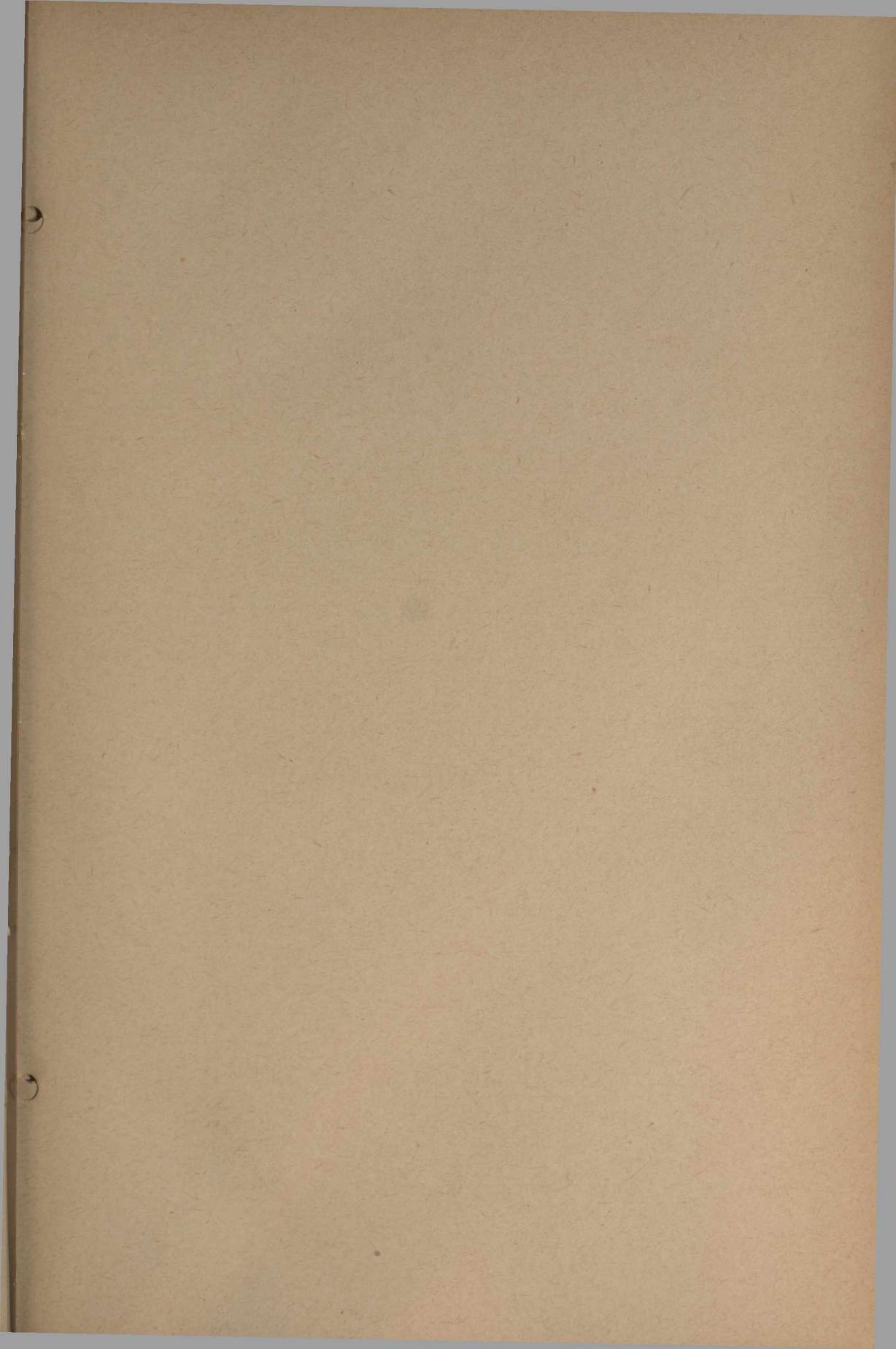
I desire now to say that when we come to consider this clause again we should not only make the decision of the Railway Commission final, subject to the statutory necessity of it being approved by the Governor in Council, but we should go a step further and provide that all complaints with respect to tolls in our national harbours should be made not to the Minister, but direct to the Railway Commission.

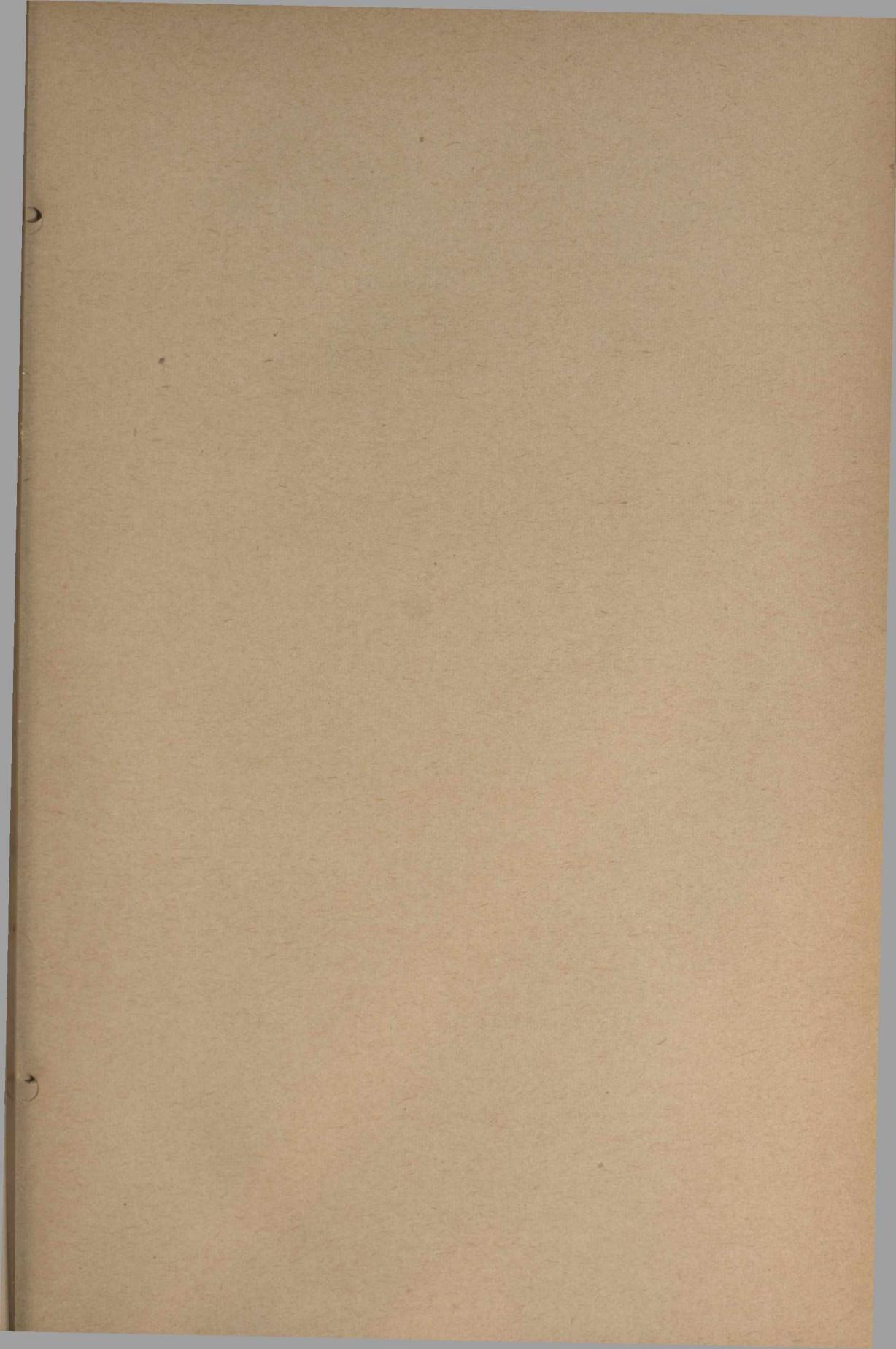
I desire to make it perfectly clear that I have no wish whatsoever—and I am sure I am voicing the opinion of this Committee—to unduly criticize this Bill or hamper its operation in any way. On the contrary, it is my desire that our suggestions should be of a constructive character and helpful to the Minister. However, my own experience as Minister of Marine and as Harbour Commissioner at the port of Montreal, would certainly lead me to welcome the reference of all charges that might be made against harbour tolls to the Railway Commission and not to me as minister.

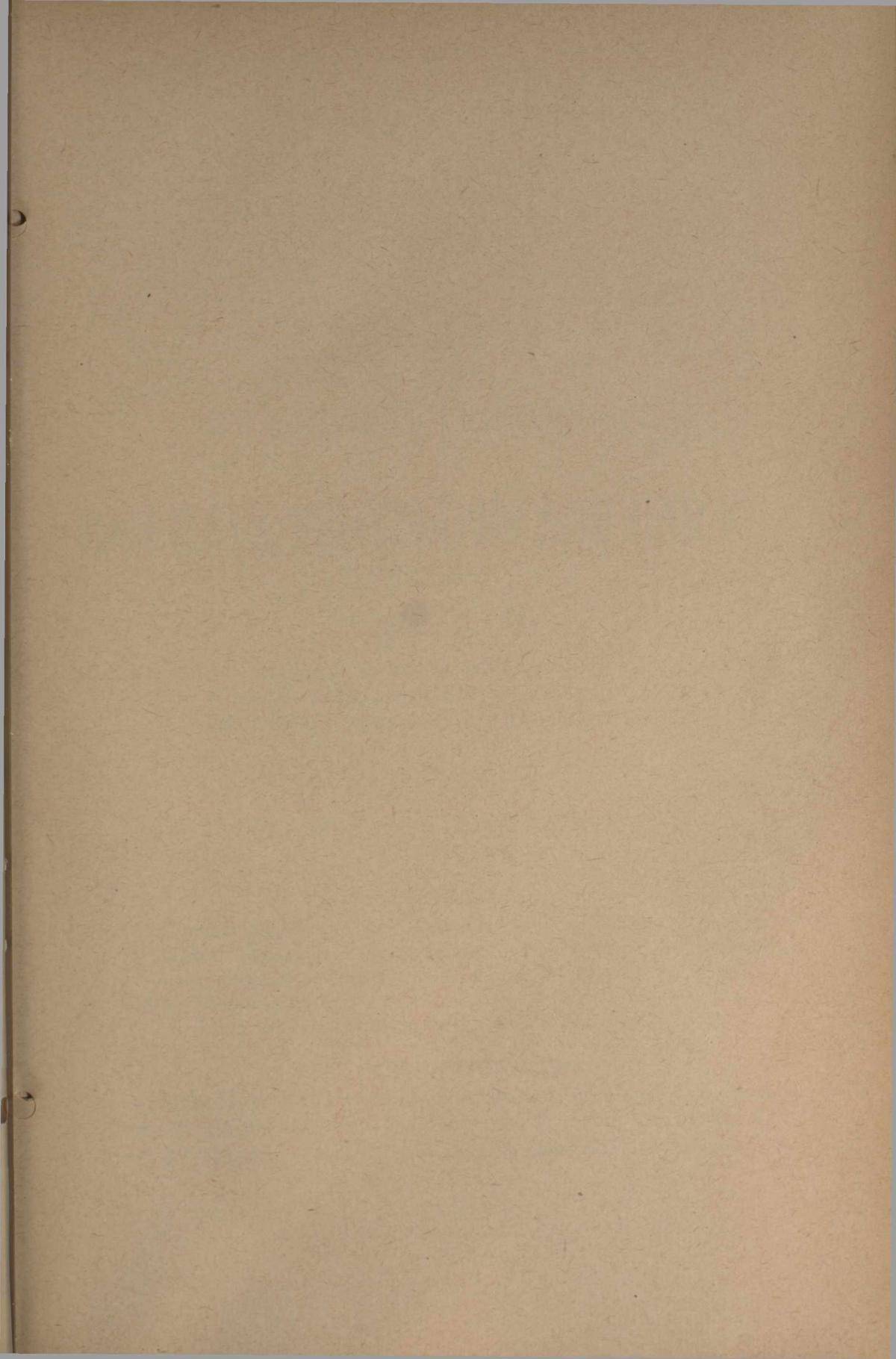
The Committee proceeded to examine the Bill.

At 5.40 p.m. the Committee adjourned until to-morrow at 10.30 a.m.









THE SENATE OF CANADA



PROCEEDINGS

OF THE

STANDING COMMITTEE

ON

RAILWAYS, TELEGRAPHS AND HARBOURS

ON

BILL B

An Act to establish a Board of Transport Commissioners
for Canada, with authority in respect of transport
by railways, ships, aircraft and motor vehicles

No. 2

The Right Honourable GEORGE P. GRAHAM, P.C.,
Chairman

WITNESSES:

Mr. Bernard Allen, Economist, Canadian National Railways, and Mr. F. C.
S. Evans, Transport Service Department, Canadian Pacific Railway.
The Honourable Hugh Guthrie, P.C., Chief Commissioner, Board of Rail-
way Commissioners.
Mr. T. R. Enderby, representing the Canada Steamship Lines.

COMMUNICATIONS:

From Shippers and Exporters Committee, the Winnipeg Grain Exchange.
From Mr. Robert D. Smith, President, the Northern Chartering Co., Ltd.
From Mr. Ernest S. Crosby, President, St. Lawrence Steamships, Ltd.

THE STANDING COMMITTEE ON RAILWAYS, TELEGRAPHS AND
HARBOURS

The Rt. Hon. GEO. P. GRAHAM, P.C., Chairman

The Honourable Senators

Arthurs	L'Espérance
Ballantyne	Logan
Barnard	MacArthur
Beaubien	Marcotte
Black	McDonald (<i>Shediac</i>)
Bourque	McGuire
Buchanan	McLennan
Calder	McRae
Casgrain	Meighen
Copp	Michener
Dandurand	Molloy
Dennis	Moraud
Farris	Murdock
Gillis	O'Connor
Gordon	Parent
Graham	Pope
Green	Rainville
Griesbach	Raymond
Haig	Robinson
Hardy	Sharpe
Harmer	Spence
Horner	Sutherland
Jones	Tobin
Lacasse	Turgeon
Laird	Webster—50.

(Quorum 9)

MINUTES OF EVIDENCE

THE SENATE,

THURSDAY, February 11, 1937

The Standing Committee on Railways, Telegraphs and Harbours, to whom was referred Bill B, intituled "An Act to establish a Board of Transport Commissioners for Canada, with authority in respect of transport by railways, ships, aircraft and motor vehicles," met this day at 10.30 a.m.

Right Hon. George P. Graham, Chairman.

The CHAIRMAN: Gentlemen, this morning we are to hear from the carriers. I suppose by the carriers we mean the representatives of the railways and of the steamships.

HON. MR. DANDURAND: Gentlemen, I draw your attention to that very important clause, No. 22, which is a departure from the policies followed in the past with regard to rigid rules fixing rates. Clause 22 says:—

Notwithstanding anything in the Railway Act, or in this Act or in any other statute, a carrier may make such charge or charges for the transport of the goods of any trader or for the transport of any part of his goods as may be agreed between the carrier and that trader: Provided that any such agreed charge shall require the approval of the Board—
etc. I have asked for some information as to how this operates in England, where the rule is now in existence, and Mr. Allen and Mr. Evans will give us some information. Mr. Allen is from the C.N.R. and Mr. Evans from the C.P.R.

BERNARD ALLEN (Economist, Bureau of Economics, Canadian National Railways): As you no doubt know, the English railways in 1921 were consolidated into four groups. At this particular time in the 1921 Railway Act there was permission granted for a reduction from the standard rates, as approved by the rate tribunal, to the extent of 40 per cent, without the consent of the tribunal.

The CHAIRMAN: What does the tribunal there correspond to here?

MR. ALLEN: The Board of Railway Commissioners. At that particular time a set of standard rates was set up for the operation of the English railways, dividing traffic into twenty classes, and the l.c.l. traffic, or package freight, was generally classed within the classification of 10 to 20 of that classification.

In 1933 the railways were permitted by the Road and Rail Traffic Act to enter into these so-called agreed charges. The part of Bill B treating of this subject is practically a copy, as I see it, of the English Act.

Right Hon. MR. MEIGHEN: Passed in 1933.

MR. ALLEN: Passed in 1933, the Road and Rail Traffic Act. Under this Act the railway is free to quote this rate, provided it has the approval of the rate tribunal. The tribunal, to my knowledge, has not rescinded any of the contracts that have been in effect, and I understand that under that English Act the provision for the withdrawal of approval can only take effect at the end of the year, provided it is an agreed charge; without that, at the end of the time set in the contract.

In order to arrive at the rates on these agreed charges, the trader and the railway get together and make an examination of the trader's traffic—either

all his traffic, or any portion of it that he wants covered by this agreed charge. Following the survey that is made of the movement of that traffic, rail rates are then applied to that particular movement, regardless of whether it is by rail, coastal, canal or highway. They apply their own standard rates to determine what they would get at the normal rates. At the same time the actual cost to the shipper is determined and he reveals to the railways the actual expense to which he has been put to get that traffic moved by any agency; and once those figures are determined the agreement and the charge from then on is a matter of dickering.

Right Hon. Mr. MEIGHEN: What is the good of finding out the cost if they never do anything?

Mr. ALLEN: There is an effort to find out to what extent they had to cut their rates to get this traffic. They want to know their position. It is largely for the information of the railway itself, and I presume it would be information at the hearing before the tribunal.

Right Hon. Mr. MEIGHEN: The whole purpose is to enable the railways, by means of these exceptional rates, to compete with highway traffic.

Mr. ALLEN: It is a machine of freedom, granted to the railways to meet competition as they find it.

Right Hon. Mr. MEIGHEN: They can make what rates they like, provided all the facts are known to the tribunal.

Mr. ALLEN: Not necessarily.

Hon. Mr. CALDER: Is the position this? So far as the present law is concerned, once the Board of Railway Commissioners fix a rate, we will say on wheat, at 10 cents a bushel, the railway company cannot ship it at less than that price.

Mr. ALLEN: I am not competent to say that.

Right Hon. Mr. MEIGHEN: In Canada.

Mr. ALLEN: Here? I do not think they can. I am not competent to say that. I do not think they can.

Right Hon. Mr. MEIGHEN: Of course they can not.

Hon. Mr. CALDER: Take the case of all the schedules of rates fixed by the Board for all commodities. The railway companies cannot haul any of those commodities at a lower rate than that fixed by the Board.

Mr. ALLEN: I would think not.

Hon. Mr. CALDER: And the object of these clauses about agreed contracts is to provide that the railway companies may, where they see competitors hauling goods at a lower rate than the rate fixed by the Board, have an opportunity to a chance to get business.

Mr. ALLEN: To meet that competition.

Hon. Mr. BLACK: This clause is a trading proposition, it gives the railways a change to get business.

Mr. ALLEN: Yes.

Hon. Mr. BLACK: Under the English Act a shipper and a carrier come together on a lower rate for a period—

Mr. ALLEN: We presume it is lower.

Hon. Mr. BLACK: Let us assume that it is.

Mr. ALLEN: Yes.

Hon. Mr. BLACK: Then, does the carrier make that rate available to all other shippers of similar goods?

[Mr. Bernard Allen.]

Mr. ALLEN: Under the operation of the English Act any trader may go before the rate tribunal and ask for such a rate. The rate tribunal will investigate the movement of his traffic, and if the two traffics are identical or practically identical he will undoubtedly get the same rate. If they are not, if the average distance of haul is different, or the traffic is of different types, I doubt if he will get the rate. But he will get a rate to which the tribunal thinks he is entitled.

Hon. Mr. BLACK: Suppose there are two shippers of steel products, and one makes an agreement with the railway to carry its products a certain distance at a fixed rate, would not that be open under the agreement to another manufacturer of the same product?

Mr. ALLEN: If he had precisely the same product moving from the same point of origin to the same destination, yes.

Right Hon. Mr. MEIGHEN: But he would have to go to the tribunal?

Mr. ALLEN: Yes.

Hon. Mr. BLACK: He does not get it unless he also makes application?

Mr. ALLEN: I do not think so. I doubt very much if these agreed charges have been extended to heavy industry traffic to any great extent. The thing started in this way—and possibly this is the most spectacular instance of agreed charges. The four English railways agreed to move all the shipments of the Woolworth Company of Great Britain, that is to any place in Great Britain, as the company desires, for four per cent of the annual money turn over of the Woolworth stores. In order to give you some idea of the flexibility of the system over there, I have a page of notices of public hearings by the rates tribunal. It shows that the first rate will be based upon so much per package; the second, per live pig; the third, per ton on dyed and celanese goods; the fourth, per live pig; the fifth, per live pig; the next, per ton; the next, per cylinder of gas—these are probably oxygen gas cylinders; the next, dolls in cases, empties to be returned to suppliers; and so on. There are several per ton rates here.

Right Hon. Mr. MEIGHEN: These are all in relation to applications for agreed rates?

Mr. ALLEN: It is a notice by the rates tribunal that applications have been made. What I have here is a notice to the public that has been published in "Modern Transport." Besides that, the English railways have established permanent addresses in twelve cities in Great Britain where information about these agreed charges can always be had. A list of those towns are here, with those addresses.

Hon. Mr. GRIESBACH: Great Britain has a comparatively small area and forty millions of people, with tremendous industrial development. In Canada we have an enormous area and a population only about a quarter as large as Great Britain's. If the English system were applied here, would it not result in a multiplicity of tariffs? Would the Board of Railway Commissioners ever be able to grapple with them?

Mr. ALLEN: The traffic that is moved on English railways is in no sense different from that moved on Canadian railways. If you go into an English freight shed you find the same kind of packages as you find here, shipped under the same conditions. The system works over there. Conditions are different here, it is true, but I doubt very much that because they are different the system will not work here.

Right Hon. Mr. MEIGHEN: Is there in England anything like this Act applying to other than railway traffic?

Mr. ALLEN: No. All the other competing agencies are free to make agreements.

Right Hon. Mr. MEIGHEN: What is bothering me is how this can be applied to, say, air traffic, unless with respect to regular routes.

Mr. ALLEN: Air traffic is faster than rail traffic, and it is quite conceivable that, under an agreed service, stuff that is now moving by rail could be moved by air.

Hon. Mr. DANDURAND: Or by water.

Mr. ALLEN: Yes. Possibly under an agreement that kind of thing could be ironed out.

Right Hon. Mr. MEIGHEN: You think it would be practicable to use this agreed charges system in other spheres.

Mr. ALLEN: Yes. I think it is being done now, because contracts must be made to-day.

Right Hon. Mr. MEIGHEN: But that is different from a contract system supervised by a commission. In England there is no attempt to supervise the agreed charges plan in other spheres than the railways. It has struck me that there might be much difficulty in extending supervision to other spheres, because air traffic and boat traffic is not run in quite the same way as rail traffic, over such regular routes, for instance.

Mr. ALLEN: I see no reason why it will not work in this country. To me it is a perfectly feasible arrangement that is flexible enough to meet the requirements of shippers.

The CHAIRMAN: Did I understand you to say that a railway which entered into an agreement to ship certain goods at a certain rate would have authority to have that traffic handled partly by air, partly by water and partly by rail?

Mr. ALLEN: I did not say that, sir, but I do not think there is any limitation placed on a railway as to how goods shall be moved, unless a limitation were written into the contract.

Hon. Mr. BLACK: Once a rate is agreed upon between a shipper and carrier in England, is that rate made public?

Mr. ALLEN: Oh, yes. The hearing is public and everything about it is public. I have a list here of some 100 hearings.

Hon. Mr. CALDER: Mr. Allen, there must be a separate application for each of these agreed rates?

Mr. ALLEN: Yes sir, but each one is a separate contract, arrived at by mutual agreement between a trader and a railway or a group of railways.

Hon. Mr. CALDER: And the Board of Railway Commissioners must consider every agreement separately?

Mr. ALLEN: Yes.

Hon. Mr. CALDER: I am afraid the Board is going to be rushed with work. Let us take the case of shipment of fruit, say, from the Niagara area to Montreal at an agreed rate. Suppose the distance is 150 miles. If a fruit grower in British Columbia wanted to ship fruit the same distance at the same rate, he would have to make application to the Board?

Mr. ALLEN: I do not think a man in British Columbia who was shipping fruit 150 miles would be aggrieved by reason of a contract affecting shipments between the Niagara Peninsula and Montreal. If he was, he would get the same rate; but if he was not, he would not get it.

Hon. Mr. CALDER: Perhaps I have not made myself clear. A man in British Columbia ascertains that a fruit grower in the Niagara district has made an agreement with a railway whereby he can move his fruit 150 miles at a certain rate. The British Columbia man says, "I want that rate; it is only half what I am paying." Now, if he made application to the Board—not to a railway, but to the Board—for the privilege of moving his fruit 150 miles at the same rate per mile, would he likely get it?

[Mr. Bernard Allen.]

Mr. ALLEN: He might and he might not. I could not say.

Hon. Mr. CALDER: What circumstances would enter into it?

Mr. ALLEN: It is a generally understood thing that railways are not going to enter into agreed charges with a shipper who is moving all his goods by rail to-day. This is a means for the railways to get traffic. If there is competition in British Columbia as there is here, I see no reason why the shipper in British Columbia would not get the same rate as an Ontario shipper.

Hon. Mr. CALDER: It depends upon competition?

Mr. ALLEN: It does, naturally.

Right Hon. Mr. MEIGHEN: I should not think that the rate in British Columbia would be affected at all by the rate here. But if one fruit grower in the Niagara district had an agreed rate for shipments to Montreal, another fruit grower in the same district would probably be able to put up a pretty good case to the Railway Board for getting the same rate himself.

Hon. Mr. DANDURAND: I should like to state to the Committee that we are privileged to have with us the Chairman of the Board of Railway Commissioners, Hon. Mr. Guthrie, and I have asked him if he would tell us what difficulties there would be in the application of this Bill if the Bill goes into effect.

The CHAIRMAN: Are we through with Mr. Allen? And has Mr. Allen anything himself to add?

Mr. ALLEN: I think I am through, sir.

Hon. Mr. DANDURAND: My idea with regard to Mr. Allen and Mr. Evans was that they would give the Committee their opinion as to how the law in England was working.

The CHAIRMAN: I think this is the most interesting feature we have had, so far.

Hon. Mr. PARENT: Mr. Allen, will you tell the Committee what kind of publicity is given to the various tariffs in Great Britain?

Mr. ALLEN: I cannot answer the question completely, sir. I do know that in the leading transport journals of Great Britain the dates of the hearings and some particulars of each and every individual case are advertised. In addition to that, the Board of Transport have set up in twelve cities permanent addresses at which any trader may receive full information respecting any agreements that are before the Board.

Right Hon. Mr. MEIGHEN: Or that have been before it.

Mr. ALLEN: Yes, or that have been before it.

Hon. Mr. PARENT: You yourself do not know, I suppose, where the various tariffs are published? Are they posted up in the streets or in railway stations?

Mr. ALLEN: The English railways have in effect to-day something near one million exceptional rates, and these exceptional rates are only posted at the station of origin and the station of destination of the traffic in each case, and they are filed with the rates tribunal. The rates tribunal issues at stated periods notices of thousands and thousands of rates that have been made.

Hon. Mr. PARENT: In a newspaper?

Mr. ALLEN: No, not in a newspaper but in one of the official publications of the rates tribunal. And of course the rates are always kept at the head offices of the railways.

Right Hon. Mr. MEIGHEN: Those million rates are not the agreed rates?

Mr. ALLEN: No, they are exceptional rates.

Right Hon. Mr. MEIGHEN: What is the difference?

Mr. ALLEN: They are not comprehensive. For instance, a rate is made for shipping of beer from one town to another, and that rate is open to all shippers of beer between those two places.

Right Hon. Mr. MEIGHEN: Is that not an agreed rate?

Mr. ALLEN: No; it is a reduction from the standard charge. There is no agreement on the part of a shipper to ship all his goods by the railway.

Right Hon. Mr. MEIGHEN: But it is made with the approval of the tribunal?

Mr. ALLEN: No. It is done without the consent of the Board. The standard rate can be cut up to 40 per cent without permission of the transport tribunal.

Right Hon. Mr. MEIGHEN: I thought that 40 per cent feature had to do with the agreed rates.

Mr. ALLEN: No. The railways there have two instruments to meet competition: one is the power to make exceptional rates under the first Act; and the second is power to make these agreed charges.

Hon. Mr. ROBINSON: Are you suggesting that the railways here should have power to make such exceptional rates, as you call them?

Mr. ALLEN: I do not think we have any standard rate in the Dominion of Canada on which to base such reductions. In Great Britain there is a standard rate, on a mileage basis, for the various classes of traffic.

Hon. Mr. ROBINSON: Have our railways any power to reduce rates set by the tribunal?

Mr. ALLEN: In England the railways can reduce the standard rate up to 40 per cent—

Hon. Mr. ROBINSON: I am talking about our railways, in Canada.

Mr. ALLEN: Oh, I cannot answer that.

The CHAIRMAN: It seems to me that a ray of light has been dispersed here which may be useful in indicating what can be accomplished in Canada.

Mr. ALLEN: May I mention, sir, that the French railways have adopted these agreed charges in the last three or four months. I tried yesterday to get a write-up respecting their adoption, but unfortunately it could not be found; however, I think it will be available for this afternoon. The principle has been deviated from a little, but very little; the general principle is the same there.

Right Hon. Mr. MEIGHEN: Have the French railways the privilege to make exceptional rates by reducing the standard rate up to 40 per cent?

Mr. ALLEN: I cannot say, sir. I rather doubt that. I imagine they make their rates with the permission of the tribunal.

Hon. Mr. ROBINSON: Would that be a good thing to have in Canada, that 40 per cent reduction privilege?

Hon. M. DANDURAND: That is a question of policy.

The CHAIRMAN: We will now hear Mr. Evans of the Canadian Pacific Railway.

Hon. Mr. DANDURAND: Mr. Evans, you have heard Mr. Allen. Can you tell us anything supplementary to his statement?

Right Hon. Mr. MEIGHEN: Tell us where he is wrong.

Mr. F. C. S. EVANS (Transport Service Representative of the Canadian Pacific Railway Company): No, I have no first-hand knowledge of the working of this kind of legislation in England. I have in a general way a knowledge of the things Mr. Allen spoke about.

There are two matters which I think may perhaps be worthy of attention. One is, this proposal seems to make possible certain savings to the railways in the carriage of traffic under agreement. I believe that has been the experience in England. The second is, that competitors in Canada, particularly highway competitors, are to-day doing a great portion of their business under contract—

[Mr. F. C. S. Evans]

they are known as contract carriers—and in substance that kind of competition is present, I should say, in a vast majority of our competitive traffic.

The CHAIRMAN: You think that a section in the Act to provide for the making of contracts between the railways and their customers would be a benefit to both parties?

Mr. EVANS: It would tend, sir, to make equal opportunities for...

Right Hon. Mr. MEIGHEN: Competition?

Mr. EVANS: Competition.

The CHAIRMAN: In other words, you think business men who utilize the railways ought to have the same advantage of contract-making as those who patronize the motor-trucks?

Mr. EVANS: I believe that, sir, yes.

Hon. Mr. DANDURAND: Your answer would be the same as to relative rates by water-carriers?

Mr. EVANS: Well, sir, I really am not competent to speak on these questions of policy. I merely came to-day to assist in any way possible to describe something which is an accomplished fact. I prefer not to express any opinion on something with regard to which I am not an expert.

Hon. Mr. BLACK: Suppose a person in Vancouver or in Saint John or Halifax wants to make a contract for a special rate on a seasonal commodity, how soon could you give him an answer?

Mr. EVANS: That would be a matter of contract, of getting together.

Hon. Mr. BLACK: I know, but that is hardly an answer. At the present time complaint is made that it is almost impossible to get a special rate from the railways in time to do business. That is a fact as I know from experience.

Right Hon. Mr. MEIGHEN: Because they have to go to the Railway Commission.

Mr. EVANS: Yes, they have to file rates.

Hon. Mr. BLACK: I think part VI will be satisfactory if it gives the railways the same opportunity as the truck companies enjoy to-day; but if it is going to cause me or some other shipper two or three weeks' delay in getting a rate, it will be just too bad; I shall not get any rate.

Mr. EVANS: The underlying principle, as I understand, sir, is the long view of the traffic. The shipper is trying to provide means of transportation for the whole or part of his commodity, and it is not an instantaneous movement. The Bill as drawn provides for seven days' notice and then a hearing by the Board. It may be that some time will elapse before that hearing takes place.

Hon. Mr. CALDER: A contract will likely result for a period, say, of a year?

Mr. EVANS: Yes, and may be without any special terms.

Right Hon. Mr. MEIGHEN: What Senator Black has in mind could only be accomplished by importing the British system of 40 per cent leeway.

Hon. Mr. BLACK: If that provision will enable the railways to compete with the highway carriers it will be all right, but I do not think it goes far enough.

The CHAIRMAN: Have you anything else to impart to the Committee, Mr. Evans?

Mr. EVANS: That is all, sir.

Hon. Mr. CALDER: Does this possibility lie in the Bill? Let us assume for argument's sake that the trucks can carry various kinds of packages weighing from one pound up to fifty pounds at a certain rate and continue to do business. Then the two railways get together and say, "We will put these trucks out of business. We will make an arrangement whereby, for a year or two, we will

carry all that traffic wherever we can get it at a certain rate which the trucks will not be able to meet."

Mr. EVANS: Well, sir, I think the Bill provides safeguards. The Railway Board would have to determine, in accordance with the Bill, as to what the effect would be on the net revenue of the carrier, and so on. I mean, if it was an economic move for the railways to make, the Board would presumably give its approval.

Hon. Mr. CALDER: And the Board must be sure the railway companies are going to make a profit on the traffic?

Mr. EVANS: The Bill contemplates apparently that the Board shall consider, among other things, the effect upon the net revenue of the carrier.

Hon. Mr. DANDURAND: I would ask the Hon. Mr. Guthrie to kindly give us an explanation as to the working out of this Bill should it be enacted and administered by his Board.

The CHAIRMAN: All right.

Hon. HUGH GUTHRIE (Chairman of the Board of Railway Commissioners for Canada): Mr. Chairman, Senator Dandurand has asked me whether in my opinion the Bill before you could be administered. It must be remembered that in this matter of agreed rates we are breaking new ground. In fact it has hardly passed the experimental stage in Great Britain. It has been in operation there for only three years, and we have no broad or definite information as to how it operates other than press reports that it is satisfactory.

It is well to bear in mind that our freight structure is a little different from that of Great Britain. We have, under the present Act, three classes of freight tariffs. First there is the standard tariff as they have it in England. It is a maximum tariff above which no railway or carrier can go.

Hon. Mr. CALDER: Is that per ton?

Hon. Mr. GUTHRIE: It is by weight and it is the maximum. That is the only thing to bear in mind with regard to it: the carriers cannot exceed it.

Then we have a provision permitting carriers to file a special tariff. There is in our Act no limitation as to what special tariff reduced from the standard tariff the railroads may see fit to file. In Great Britain the carriers can go 40 per cent below their standard tariff without the consent of the Tribunal. We have no 40 per cent limitation at all. A railway can file a special tariff at any moment it likes—this is in regard to Senator Black's question—and it will come into force in three days.

Right Hon. Mr. MEIGHEN: With your approval or without?

Hon. Mr. GUTHRIE: Without our approval. It is a decrease, not an increase. If the special tariff proposes an increase it does not come into effect until after thirty days and, if necessary, the hearing of objections.

The special tariff will accomplish a very great deal that is now accomplished in England under this contract system, but it will not accomplish everything. The advantage of a contract system is that it puts the carrier and the shipper in a position to know exactly what it will cost to carry the goods for a definite period of a year or longer than a year. Now if a special tariff is filed it is not confined to all the goods of any shipper, it has application all over the country, and as long as it does not discriminate against any shipper or any particular locality in the country it is a perfectly good tariff after three days without the consent of the Board.

The third is a competitive tariff. Whether it is water competition or highway competition, the railway companies can file competitive tariffs affecting points that are competitive. They do so almost daily. Take a recent case of a shipment of silver from Quebec to the Soo. The standard tariff was 36 cents per hundred pounds. The railway put into immediate effect a tariff of 10 cents per

[Honourable Hugh Guthrie.]

hundred pounds to meet water competition. That, being a reduction, does not require approval of the Board. The only approval required is when the tariff increases the standard tariff or may cause discrimination.

Right Hon. Mr. MEIGHEN: A special tariff which is a reduction goes into effect in three days. But suppose on examination you find it is a case of discrimination?

Hon. Mr. GUTHRIE: Then we will cancel it.

Right Hon. Mr. MEIGHEN: Of your own motion?

Hon. Mr. GUTHRIE: Yes.

Ninety per cent of the carriage business in Canada is handled under special tariffs; less than 10 per cent, I am told, under standard tariffs. They have all been reduced.

This proposal, I believe, would have advantages. The contract system would give some advantage to the shipper as well as to the carrier, for they would know definitely where they are at. I do not see any difficulty in administration of the system. We have the machinery, and with the necessary additional staff we could establish bureaus of information. They have ten or twelve in England. We might need many more here. At those bureaus tariff information can be readily obtained by all shippers. I do not think the proposal presents any difficulties of administration.

Hon. Mr. BLACK: The time element is an important one. Suppose a man in Halifax wants to negotiate for a special rate and applies to Moncton. Does the Moncton office give a decision or is the matter referred to Ottawa?

Hon. Mr. GUTHRIE: It would be referred to Ottawa. The rate would be filed here.: It can be done by wire.

Hon. Mr. BLACK: I am wondering why there has been so much delay?

Hon. Mr. GUTHRIE: The Act specifies three days. You could amend the Act and reduce the time to one day. But there is no serious delay in bringing these tariffs into effect once the parties decide what they want done.

Hon. Mr. DANDURAND: Mr. Guthrie, when you fix a rate based on a special agreement can you at the same time fix a parallel rate for water shipping?

Hon. Mr. GUTHRIE: No, we cannot touch water rates at all.

Hon. Mr. DANDURAND: No, I am speaking about what you could do under this Bill.

Hon. Mr. GUTHRIE: I fancy that under the Bill we could.

Hon. Mr. DANDURAND: And also with respect to airways?

Hon. Mr. GUTHRIE: Yes.

Hon. Mr. DANDURAND: And you would take all this into consideration in dealing with rates from one point to another?

Hon. Mr. GUTHRIE: Yes, just as they do in England.

Hon. Mr. GORDON: In the case of competition between the railways themselves is it the policy of the Commission always to base the rate on the shorter haul?

Hon. Mr. GUTHRIE: No. The haul enters into it, and the shorter haul is included in the longer, but the rate is based as between the railways so there will be no discrimination whatever. One cannot cut the rate of the other. There has to be equalization as between the two roads.

Hon. Mr. GORDON: Here, say, is a plant situated at a point where it can ship its commodity to a given place by a route one hundred miles shorter than that by the other road. Would you not base your rate on the short haul?

Hon. Mr. GUTHRIE: We cannot interfere with geographical advantages. Industries are established in locations which give them certain geographical

advantages, and it has never been considered part of the duty of the Board, either by me or by my predecessors, to interfere with those geographical advantages. A man may be established very close to an important market, another man a very long distance away from it. We do not equalize that geographical advantage at all.

Hon. Mr. GORDON: I do not think you catch just what I mean. A plant is situated in a position where it may ship to a given point by either of the railroads. Is there any reason why the competing road which has the longer haul

Hon. Mr. GUTHRIE: Oh, well, the rate fixed by the shorter route would govern both.

Hon. Mr. GORDON: That, I think, is a proper policy, but I do not think it has always been pursued.

Hon. Mr. GUTHRIE: If you will point out a case we will look into it.

Right Hon. Mr. MEIGHEN: What is the difference in principle under our present rate structure between the competitive rate and the special rate? Why should not any railroad which wants to file a competitive rate file it as a special rate?

Hon. Mr. GUTHRIE: They can, but the competitive rate is specially provided for in the Act and can only be applied to really competitive points.

Right Hon. Mr. MEIGHEN: Why do they not file it as a special tariff?

Hon. Mr. GUTHRIE: They can, but then it has to apply all over the country.

Right Hon. Mr. MEIGHEN: A special tariff has to apply all over?

Hon. Mr. GUTHRIE: Yes.

Right Hon. Mr. MEIGHEN: Oh, I see. That is the difference.

Hon. Mr. SUTHERLAND: May I inquire of the Chairman of the Railway Board with regard to competitive points where the special rate applies. What is the nature of the competition? Is motor truck highway traffic considered competition?

Hon. Mr. GUTHRIE: Yes, as we decided in the potato case now before the Court of Appeal. That was a case of highway competition in moving potatoes.

A very large portion of the potato crop in Ontario is now moved by truck, and in order to get a part of that potato trade the railways put in a competitive rate applicable to the Toronto and Montreal area.

Hon. Mr. PARENT: And to do that they did not have to refer to you at all?

Hon. Mr. GUTHRIE: They did it of their own accord, but we first had to determine that these were competitive points.

Hon. Mr. SUTHERLAND: Is it not a fact that these competitive points receive special rates as against non-competitive points? Is not that largely responsible for the motor trucks invading the field of business of the railway companies to a large extent? The cut in the rates is so great that there is a tremendous advantage to those in the competitive areas as compared with those who are not.

Hon. Mr. GUTHRIE: It may be so. I cannot say as to that.

The CHAIRMAN: Thank you, Mr. Guthrie. You have cleared away many of the cobwebs.

Now, we have heard from the rail carriers and have received a good deal of information about the workings of the railway tariffs here and elsewhere. It is suggested that we should now hear from the water carriers. Is Mr. Enderby here?

Mr. ENDERBY: Yes.

[Honourable Hugh Guthrie.]

Hon. Mr. DANDURAND: Will you give us your views on the Bill which is before us, and which may affect you?

Mr. T. R. ENDERBY (Canada Steamship Lines, Montreal): Mr. Chairman, the Canada Steamship Lines, as an important factor in lake transportation, are generally in favour of the Bill. They welcome regulatory measures with regard to freight rates.

Right Hon. Mr. MEIGHEN: That is a big change of policy.

Mr. ENDERBY: Not of mine, sir, but of the company's.

We see in this Bill, or at least we hope we do, a court of appeal or a referee in the matter of disputes regarding freight rates, and perhaps a conservation of the revenue of the various transportation companies which at present is being sacrificed.

We are not particularly favourable to section 22, which is the agreed rate, in its present form. We think that in part it is helpful, but we see that it might be dangerous. We hope that out of this Act will come a measure which will prevent discrimination against any particular district or the movement of any particular commodity, and that it will prevent the granting of any unfair advantage to any form of transportation. We think the Bill has all those possibilities.

Hon. Mr. DANDURAND: Have you in mind a modification of this clause, to submit to us later on?

Mr. ENDERBY: Briefly, section 22 says that any special rate may be appealed by a carrier of the same class. We think that any special rate that is granted should be thrown open to any class of carrier, not to any special class or the same class of carrier. We think that in that particular phase of the clause there lies a possibility of discrimination.

Right Hon. Mr. MEIGHEN: Could you illustrate that by example?

Mr. ENDERBY: If one particular class of carrier is enabled under this measure to enter into a contract for a year, or any given period, for the movement of all or any part of a shipper's freight, we would like to know, first of all, how it is going to affect the two railroads. Who is going to get the business? Secondly, why should a favourable rate of that description be confined to a particular commodity? Why should not everybody that manufactures that sort of commodity be entitled to a similar rate?

The CHAIRMAN: Under this Act, if they made application would they not get the same rate for the same commodity?

Mr. ENDERBY: We do not think so. Suppose one man had 20,000 tons of a commodity to ship, and another man had 2,000 tons, who is going to get the better rate?

Right Hon. Mr. MEIGHEN: Suppose the 20,000-ton man makes a deal and gets an agreed rate and comes to have it approved, the 2,000-ton man is going to be there and will demand it too.

Mr. ENDERBY: If he knows about it. There is nothing there to make the agreed rate public.

Hon. Mr. DANDURAND: Oh, I think it is the sense that there should be—

Mr. ENDERBY: The danger would be removed if the agreed rate were made public and subject to appeal.

Hon. Mr. GUTHRIE: That is all contemplated in the Act.

Hon. Mr. CALDER: What do you mean by "subject to appeal"?

Mr. ENDERBY: It should be open to discussion.

Hon. Mr. CALDER: It should be open to any person else to get the same rate?

Mr. ENDERBY: Yes.

Hon. Mr. GUTHRIE: That is provided.

Mr. ENDERBY: But the Bill confines the appeal to the same class of carrier, in several places, so a rate made between a steamship company and a shipper would not be subject to discussion or appeal by a railroad, or the other way about.

Hon. Mr. GUTHRIE: It is by the shipper.

Mr. ENDERBY: It must be the same class of carrier.

The CHAIRMAN: Is it your contention that if a certain rate is agreed upon by boat it should be applicable to rail?

Mr. ENDERBY: In part measure, yes.

The CHAIRMAN: It might help to level things up, but water-carried freight has usually been much cheaper than rail-carried freight.

Mr. ENDERBY: In most instances, yes. We think the present Railway Act as Mr. Guthrie explained it, with the standard rates, the special commodity rates and competitive rates, gives the shipper pretty nearly everything he wants in the way of rate machinery. We do not think this section of the Bill, which has evidently been lifted right out of the English Road and Rail Transportation Act, is really necessary. Traffic in Canada must, I think, vary from traffic in England.

Right Hon. Mr. MEIGHEN: Mr. Guthrie points this out as something additional. If a man comes in under this clause and makes a contract he can make it for five years, and he will know what he can depend on for five years. He cannot do that under the other. All he can get under it is a special rate, but the railway may change it at any time. Is not that a real advantage?

Mr. ENDERBY: It depends upon the rate, sir.

Right Hon. Mr. MEIGHEN: But it is really valuable to him to know that he has a certain definite, contractual length of time.

Mr. ENDERBY: It might work both ways.

Right Hon. Mr. MEIGHEN: It is up to him. He is making the bargain.

The CHAIRMAN: Is there anything else?

Mr. ENDERBY: Those are my views, sir. I should be glad to answer any questions, if I can.

The CHAIRMAN: Are there any questions?

Hon. Mr. BLACK: Mr. Chairman, in the statement made by Mr. Allen during his evidence there was an indication that the rates as applied in England might be, and perhaps are, discriminatory. He said the first contract there was made with Woolworths, a very large trading corporation, whereby their small parcels, 40 pounds and up, were carried all over England at reduced rates. It seems to me that every small trader in Canada would feel aggrieved if Eaton's or Simpson's or any other large concern was able to deliver its goods in the small towns at a lower rate than its smaller competitors. The English system, as Mr. Allen described it, undoubtedly places the larger distributor in a very favourable position as compared with the smaller one.

Mr. ENDERBY: That is what I see in section 2, the danger of discrimination of that kind under certain contract or agreed rates.

Hon. Mr. BLACK: I should think so, under the application of the English system.

Mr. ENDERBY: I think the agreed rates should be subject to approval of the Board before it is permissible to do business under them.

Right Hon. Mr. MEIGHEN: They are.

[Mr. T. R. Enderby.]

Hon. Mr. BLACK: I am wondering whether the smaller distributor ought not to have the same privilege.

Hon. Mr. CALDER: If an application is made by any trader to the Board for an agreed rate, then any other trader who thinks his business may be affected by the adoption of that rate has a right to be present and make objection. That is according to subsection 4 of section 22, as I read it. And in the second place, any representative body of traders may be present and make objection; and in the third place, any carrier of the same class may be present and make objection. So, if one of the railway companies applied for approval of an agreed rate, another railway company could have its representatives there to object. But a steamship company could not have its representatives there?

Mr. ENDERBY: That is the way we read it, sir.

Hon. Mr. CALDER: Do you think you should have the right to be present?

Mr. ENDERBY: Yes sir. And we think the railways should have the right to be present in connection with any agreement we make.

Right Hon. Mr. MEIGHEN: In years gone by the subject of some control of lake rates was frequently under review in the House of Commons and possibly here, and the steamship companies then always opposed anything in the way of interference. I am not saying you are inconsistent now in supporting it, but could you state to the Committee in a few words what has altered your attitude towards control?

Mr. ENDERBY: The very much modified clauses of the Bill. The objection of steamship men in days gone by was really due to the drastic regulations included in proposed bills, as to what the steamship companies should do in the matter of routes. Under those bills we could be ordered into or out of ports at which the traffic was almost negligible. I think the chief objection of the steamship companies in the past was based on that.

Right Hon. Mr. MEIGHEN: I think they opposed interference of any kind. Is it not the fact, really, that highway competition has just made it impossible to do any business at all?

Mr. ENDERBY: Well, it has made it quite impossible, in some districts, to do business.

Hon. Mr. DANDURAND: Before we dismiss Mr. Enderby I should like to put a question to Mr. Guthrie. If there were an application to the Board with respect to an agreed charge by the railways between Toronto and Montreal, for instance, under this Bill would that application necessitate a review or examination of the competitive charge by water during the summer season?

Hon. Mr. GUTHRIE: Yes, I think it would. Of course, some of the competitive charges between Montreal and Toronto, for instance, are in operation in the summer season only; but with respect to coal, a competitive charge is in operation all the time. In the great majority of cases though, it is only in the summer season that there is competition by water.

Hon. Mr. DANDURAND: Suppose there were a demand for a reduced rate for shipment of certain goods by rail between Montreal and Toronto, would the rate necessarily be higher or on a level with the charge on the water, in the summer season?

Hon. Mr. GUTHRIE: I do not know that I could give an opinion on that, without hearing all the parties.

The CHAIRMAN: I would not commit myself. I had some experience in trying to put a halter on the Canada Steamship. But there was not competition all around as there is to-day. Highway competition has made control of rates almost an impossibility. We control neither the highways on which the trucks run nor the trucks themselves; highways and trucks are under provincial control.

I am free to say that trucks and buses will always run, because they are so convenient.

Hon. Mr. DANDURAND: Have you any other comment to make on the Bill, Mr. Enderby?

Mr. ENDERBY: No sir.

The CHAIRMAN: I want to say a few words about an unfair condition. It may be that some of the guilty parties are here, possibly on the Committee. Some shippers patronize a railway in winter time, when we have snowstorms, but they forget all about the railway in the summer. Now, that is unfair. Many small communities are entirely dependent upon railways in winter when there is no bus or truck traffic, and at all times the railways can only charge rates that are approved by the board. It is a very difficult situation. How it can be remedied, I do not know.

Is there any other representative of the carriers who would like to be heard? This is your day. We have heard considerable about smaller steamers. Is there some representative of these here who is afraid they are going to be interfered with by this Bill?

Hon. Mr. PARENT: Mr. Chairman, we have had certain representations made to us regarding this Bill, but up to the present time no one has suggested any amendment for our study. Mr. Enderby, for instance, does not like section 22, but he presents no suggested amendment, nothing for us to consider. I should like to know whether he has any amendment to suggest.

Mr. ENDERBY: I have not, just at the moment, sir. I could let the Committee have that when you meet again next week.

Hon. Mr. PARENT: What I am saying applies to all who have criticized the Bill. I do not know whether I represent the views of the Committee in what I have said.

The CHAIRMAN: Senator Parent's suggestion is a very practical one. We expect the Government, particularly the Department of Transport, to make notes of all suggestions presented here, and to draft amendments to comply with such suggestions that are considered practical. But it is necessary that anyone who has amendments in mind should present them for the Committee's consideration.

Mr. ENDERBY: We postponed the submission of any amendment until we heard the Bill discussed and learned the views of the various interests. We shall be glad to let you have our suggested amendment Monday.

Hon. Mr. CALDER: There is one feature that I do not quite understand. Under this Bill a railway company may make a contract to handle all the shipments of a certain person or company, to any or all points in Canada, at an agreed rate or rates. What happens if the railway does not actually run to some of the points where the shipper wants his goods delivered? The railway may have to use trucks or boats, perhaps. I cannot find in the Bill anything providing for the making of arrangements for the delivery of goods to destination in such cases. Is a railway company free to do as it pleases in the making of contracts for final delivery in such cases?

Right Hon. Mr. MEIGHEN: Yes.

Hon. Mr. CALDER: Suppose some goods are shipped from Montreal to a place in Ontario that is 20 miles distant from a railway station. What happens in that case?

The CHAIRMAN: Railways have adopted a system of picking up and delivering goods. They engage trucks in urban and country districts.

Hon. Mr. CALDER: Suppose the railway has not a truck in a certain district where it wants delivery made?

[Mr. T. R. Enderby.]

The CHAIRMAN: It has a perfect right to hire a truck.

Hon. Mr. CALDER: The railway is free to make any contract it likes for the carriage of goods over those last twenty miles?

The CHAIRMAN: Yes, I think so.

Hon. Mr. ROBINSON: Mr. Chairman, the point you raised about seasonal competition with railways is I think a very important one. I wonder if there is in this Bill anything which allows the railways to protect themselves against this seasonal competition, whether they are given any power to make seasonal rates so as to be able to compete with trucks in the summer time and to raise their rates in the winter? I think the railways should have some latitude in order to protect themselves, for the situation is a serious one. Can Mr. Guthrie say anything about that?

Hon. Mr. GUTHRIE: The railways are trying to meet the situation every day. They are putting special rates and competitive rates into effect.

Hon. Mr. ROBINSON: Can they raise those rates in winter?

Hon. Mr. GUTHRIE: They can withdraw a special rate and go back to the standard rate, if they want to. The railways publish a long list of rates every summer which are in effect throughout the summer and until the first of November.

Hon. Mr. ROBINSON: Then you would have no objection to the railways making different rates for summer and winter traffic?

Hon. Mr. GUTHRIE: No. The matter is in the hands of the railways.

The CHAIRMAN: Sometimes railways desire to withdraw a certain service altogether, because they get little traffic in the summer, but they are not allowed to withdraw it—quite properly.

Hon. Mr. BLACK: Mr. Chairman, this Bill may enable the Federal Government to regulate interprovincial traffic by truck. I think it is generally conceded that they cannot regulate provincial highway traffic. It seems to me that the carriers here represented, the truck and bus companies, may have something to say on this point.

The CHAIRMAN: We have asked any persons representing the carriers to give us their views on the Bill.

In my view, the Federal authority can get no control over provincial highway traffic except by arrangement with the provinces. Provincial railways come under the jurisdiction of the Dominion Railway Board only when they are declared to be a work for the general advantage of Canada.

Is there anything further? Does any person representing the carriers desire to address us?

Are there any shippers present who would like to spend a little time telling us about their troubles?

Hon. Mr. BALLANTYNE: Apparently no one desires to say anything.

The CHAIRMAN: I might say, gentlemen, that we have received several communications with reference to the Bill, some from the West. What shall we do with them?

Right Hon. Mr. MEIGHEN: I should like to hear them read, so we may know just what attitude the writers take.

Hon. Mr. HORNER: Mr. Chairman, as a member of the Committee and also as a shipper, I should like to draw attention to something which, it seems to me, is somewhat important, though I do not know whether it can be taken care of in this Bill. If, as a matter of business, you send a telegram it is strictly confidential, and is so treated; but if you want to ship a carload of live stock and order a car for the purpose, that order is immediately posted on the board at that market.

The CHAIRMAN: Is that at the point of destination?

Hon. Mr. HORNER: Yes. I take very strong objection to the practice. I think it is entirely unfair to the shipper. For instance, if you are on the market with a carload of cattle, and there are not many cattle for sale, when you step into the office you find the railway company has gone to all the trouble of furnishing that market with a list of all the cars en route and all the cars loading for that market. You may wonder why the buyers are not buying your stock. Well, they tell you so many cars will arrive to-morrow and so many next day. The same practice applies to the shipment of horses. I claim that if you are paying freight for the shipment of live stock or horses or anything else, it is entirely your own business whether that information should be given out. The transaction deserves the same secrecy as a telegram.

Hon. Mr. DANDURAND: The honourable gentleman's complaint is not covered by the Bill.

Hon. Mr. HORNER: Maybe not, but it should be covered.

The CHAIRMAN: Perhaps some of you carriers will give us the reason for the practice which Senator Horner complains of.

Now we will read the correspondence into the record.

The following letters were then read:—

THE WINNIPEG GRAIN EXCHANGE

OFFICE OF THE SECRETARY,
WINNIPEG,

February 6, 1937.

The Honourable GEORGE P. GRAHAM,
Chairman,
Committee on Railways, Telegraphs and Harbours,
The Senate,
Ottawa, Ontario.

DEAR SIR,—The Shippers and Exporters Committee of the Winnipeg Grain Exchange views with alarm the proposed legislation designed to bring lake transportation under a system of licensing and rate regulation as embodied in Bill "B," An Act to establish a Board of Transport Commissioners for Canada with authority in respect of transport by Railways, Ships, Aircraft and Motor Vehicles.

Lake transportation has been developed over a long period of time under a competitive system based on supply and demand conditions. Rates have been dependent in a large measure on the supply of grain available for transport, on the character of the freight, on the possibility of return cargoes, on the time required to complete loading, transport and discharge, on the period of the year and climatic conditions, and on the size, character and quantity of the tonnage available. Rates are also dependent on international competitive conditions on the lakes, such as movement of grain from Canadian ports to American ports for transshipment from these ports in bond to either Canadian or American seaboard, and to competition to some extent with ocean tonnage out of Pacific ports and Churchill and via small direct tramp ocean vessels.

Such licensing and regulation of tolls as proposed would seriously interfere with the free movement of Canadian grain, with the adequate adjustment of rates to meet continually changing conditions, would tend towards monopoly and to an increase in the cost of lake transportation

of Canadian grain to the detriment of the producers of Western Canada, and be the means of diverting considerable traffic to other channels to the detriment of Canadian lake carriers.

I am instructed, therefore, to register a vigorous protest against the adoption of this restrictive legislation.

Yours respectfully,

SHIPPERS AND EXPORTERS COMMITTEE.

GEO. S. MATHIESON,

Secretary.

ROBERT D. SMITH, *President*

THE NORTHERN CHARTERING COMPANY LIMITED

VESSEL AGENTS AND BROKERS

GRAIN EXCHANGE

WINNIPEG, February 8th, 1937.

HON. GEO. P. GRAHAM, Chairman,
Comm. on Rys., Telegs. & Harbours,
Ottawa.

DEAR SIR,—As a vessel broker engaged in the chartering of ships on the Winnipeg Grain Exchange since 1910, over a quarter of a century, I desire to protest vigorously against the proposed legislation to regulate lake grain freights and to license brokers.

There are two classes of men doing business in lake freights on the Winnipeg Grain Exchange. The economic developments of the past decade has brought in a salaried agent representing a particular fleet. This class of man is an out and out freight solicitor. His duty is to see that his fleet has grain to carry. In his anxiety to get this grain he often loses sight of the matter of rates and is prone to take grain at any price rather than hold up the ship waiting better rates. The reason this class of agent exists is that the boat owner employing him does so with the mistaken idea that he can thereby save the brokerage which otherwise a broker would secure. True they get the brokerage all right but they are usually losing more in the matter of freight revenue.

The other class soliciting lake grain freight, today much in the minority, are brokers. They realize that to get ships they must give service and get good rates. They have a stimulating effect on lake rates. They keep owners posted as to the actual condition existing in the freight market.

Generally speaking most American ships, especially fleets carrying grain prefer to trade through brokers realizing they are more fully posted thereby as to the market and do get better dispatch and rates than they would otherwise.

Were Canadian fleets estopped from trading other than through brokers; something the larger fleets have never tried, they would appreciate these statements. On the other hand they have tried numerous other schemes without success.

The present deplorable situation in Canadian Lake Freights is due largely to the ill advised purchase of ships by parties not particularly cognizant of the lake business. They saw others making money under abnormal conditions and took a flyer. Now they want somebody else to hold the bag.

The law of supply and demand operates in lake freights. The owners control the supply of ships. If they chose to glut a market in periods when ships are not needed, that is their lookout. If in order to chisel in on the living of a broker, by using a salaried agent, again that is their lookout.

If you will look to the experience of other countries you will find that ships which are private carriers are much better left alone and unregulated. High priced and obsolete ships cannot be made profitable by government mandate without having repercussions in other fields which will cause trouble, friction and dissatisfaction.

I must confess that I cannot see just how any government authority can establish a fair and equitable rate to all ships. Some ships, because of their type of construction are poor coarse grain carriers, others cannot even carry wheat through the lower rivers as well as other ships. Then too, there is the matter of the location of grain in the elevators at Fort William. Often a cargo has to be secured at ten or more elevators and at the same time other grades of grain are available in one or two houses. Likewise there is the matter of dispatch at the lower lake unloading ports. One ship may get a prompt unloading cargo while the other may be given a cargo which will be days or even weeks, in time of congestion, to unload. A ship and a railroad are two entirely different propositions when it comes to the matter of rates and rate making. The owners themselves do not seem to be able to regulate themselves and I doubt very much that any government body will do any better.

Certain ship owners are not pursuing a policy of live and let live, but one designed to their own survival at the expense of others. I understand that these are the owners who are most urgent in their desire to secure the proposed legislation.

By reference to Mr. Herbert J. Symington and Mr. McLean who conducted the Royal Commission on Lake Freight rates some years ago, you can ascertain that I have a real knowledge of what I am presenting you.

Again I must warn you that the proposed action will be of benefit to but a couple lines and will cause hardship on all the rest. It will cause trouble for the shippers and it will react against the price of wheat to the farmer.

I would suggest that if the charters which are now filed with the Board of Grain Commissioners were to be always public to both shippers and vessel brokers at Winnipeg and that if these charters were made to contain all concessions and inducements given the shipper, there would be a great deal less of the under cover stuff going on in the matter of boat chartering. At present these charters are not available for inspection although it was originally so intended, but because of certain influence being brought to bear, the charters are not available to the public.

Truly yours,

ROBERT D. SMITH.

Right Hon. Mr. MEIGHEN: Do you remember whether the Mr. McLean referred to in that letter is Mr. S. J. McLean of the Railway Commission?

The CHAIRMAN: I do not think so.

Right Hon. Mr. MEIGHEN: I should like to hear him or Mr. Symington on the subject of lake freight rates.

The CHAIRMAN: Shall we suggest that we would appreciate it if the Mr. McLean of this commission that has been referred to would come and tell us about this?

Hon. Mr. GUTHRIE: Did they not make a report? Would not that contain what you want?

Right Hon. Mr. MEIGHEN: We might read the report first.

The CHAIRMAN: Now, there is a letter from E. S. Crosby & Company.

The CLERK OF THE COMMITTEE (reading):

E. S. CROSBY & CO., INC.

VESSEL BROKERS

Managing Agents, St. Lawrence Steamships, Ltd.

MARINE TRUST BUILDING,

BUFFALO, N.Y., February 10, 1937.

The Hon. GEORGE P. GRAHAM, *Chairman*,
Senate Railway, Harbour & Telegraphs Committee,
Ottawa, Ont.

Dear Sir:

I am taking the liberty of addressing you by letter with respect to the pending Bill before Parliament creating a Board of Transport Commissioners and giving it jurisdiction over inland steamship transportation, highway and air lines. It is my understanding that your honourable Committee will hold public hearings on this Bill and invite interested parties to appear some time during the present month. It was my intention to appear at that time, but I find that an exceedingly important matter requires a voyage to England at this time and after making every effort I am unable to postpone my departure.

For that reason I beg that you accept this communication in lieu of an appearance at the hearing.

The writer is president of St. Lawrence Steamships, Ltd., of Welland, Ontario, which is incorporated under the Dominion Companies Act to operate steamships and allied facilities in Canada and owns four modern canal steamers, built in 1929, and operating regularly as private or contract carriers, transporting mainly grain, coal, pulpwood, newsprint, etc.

As regards the application of the pending Bill to private or contract carriers, such as ourselves, we believe that in certain respects the measure is impracticable and likely to produce harm rather than good and it is our hope that the measure will either be defeated or else private or contract carriers exempt from its provisions.

It is our belief that a free market in freights is essential for such carriers to operate effectively and that adjustments of freight charges must be made on the spot both as to upward and downward revision if our traffic is to be encouraged and retained in competition with other avenues of transportation, many of which lie outside the Dominion and the scope of the proposed Board's control. I quote, for example, the need for adjusting lake grain rates to meet indirect competition from the American seaboard routes and also readjustments of ocean freight rates as between Atlantic and Pacific ports and also between American and Canadian Atlantic ports. These ocean freight adjustments place a variable but arbitrary maximum upon our lake rates. To explain further, the lake rate is considered in combination with ocean rates when the grain shipper plans his movement and the total cost determines the route. Seeing that ocean rates are not regulated by the Board it seems only feasible to leave the lake carriers free to make the necessary quick readjustments.

We have before us an example of repeated failure of the lake carriers to stabilize their rates as evidence of the necessity of an open market.

From the theoretical standpoint I believe that "regulation" is only workable in case of an effective monopoly. To put the matter bluntly, if you are going to enforce a fixed rate you must be sure that you have your buyer properly cornered so that he will be forced to meet your figure and at the same time will not be prevented from doing business at the rate named. Such a condition has existed to a fair extent with the railroads in the past when they have had an effective monopoly, but in a highly competitive situation, particularly with indirect competition, the effort to neutralize competition by fixed rate structures has not succeeded in practice.

For small carriers not as well established as larger and older companies the lack of a rate differential or the potential ability to offer such differential, closes an avenue by which such companies can meet competitive inducements, other than rates, offered by such companies. Furthermore, the existence of fixed rates facilitates the growth of "vertical" organizations where the shippers of freight operate their own fleets of vessels and other facilities and eliminate the independent operators.

The licensing plan of the proposed Bill in practice does not seem to be suited to the manner in which private or contract carriers in the bulk freight trades conduct their business. It seems rather to have been designed for the regular "lines" which carry general cargo on regular routes and hold themselves out to accept freight by whomsoever offered. Our vessels carry freight in cargo lots, mostly for single shippers, calling wherever business offers from trip to trip and obtaining a licence for specific ports would provide an awkward handicap. I should judge that this situation simply was not contemplated by those framing the Bill and that there might be no objection to exempting contract carriers.

We also feel that the law is not sufficiently specific with respect to conditions under which the Minister should grant or refuse a licence. Apparently the matter is left wholly to his discretion, whereas we believe the law should set forth the conditions under which he will grant a licence and also the conditions under which a licence is to be denied. It is not clear whether this licence is to be analogous to the certificate of public convenience or necessity, which is required of a railroad and, in fact, there is no provision for continuity of any particular policy in granting or refusing licences, so that the shipowner will never know definitely when he can count on continuing in business. In this respect also I think the licensing is particularly impracticable for contract carriers and seems probably to have been designed for regular merchandise services on fixed schedules. In the case of a contract carrier a wholly new situation may arise each time he wishes to make the charter of a single ship and the wording of the law suggests that it would be necessary to obtain another licence every time he wished to take some new class of cargo, or carry it to a different port.

I trust that your Committee will give due consideration to the matter of exempting private carriers and to the manifold objections which arise from the attempt to apply a system of regulation designed for railways to other forms of traffic where conditions are not parallel.

If possible we shall have a representative on hand at the hearing of your Committee in the person of Mr. R. A. Carter, who is agent of our

company at Montreal. If Mr. Carter is able to appear he will have authority to represent our company.

We trust your Committee will find this letter acceptable in lieu of the writer's personal appearance and will be most appreciative of any consideration it may receive.

Respectfully submitted,

ST. LAWRENCE STEAMSHIPS, LTD.,

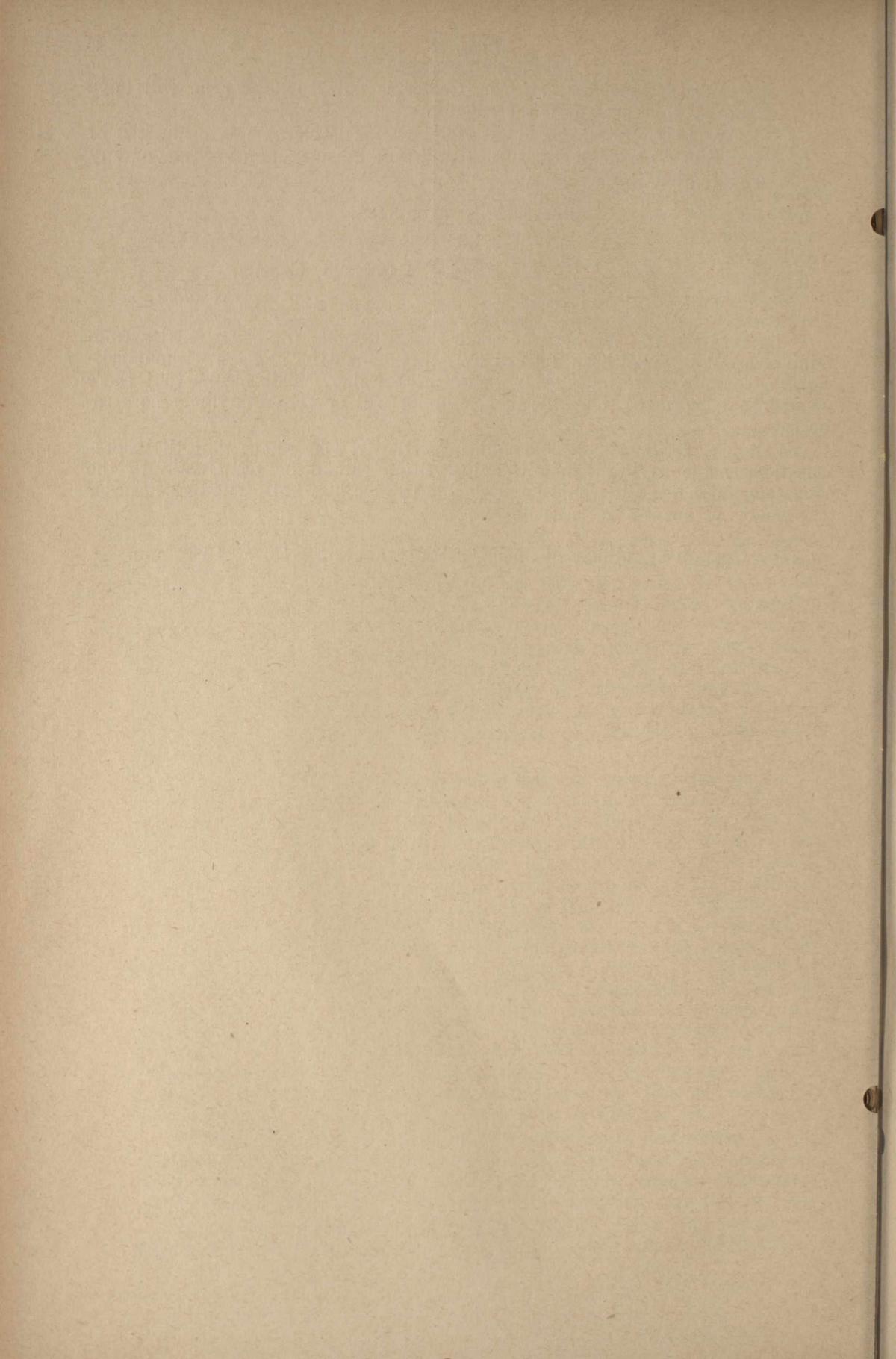
(Sgd.) ERNEST S. CROSBY,

President.

The CHAIRMAN: We had set aside this afternoon for some parties from Winnipeg, but we have been notified that they cannot be here, so without asking the Committee we have given them another day. This means that there is nobody to be heard this afternoon, and we will not have anybody here tomorrow.

Hon. Mr. DANDURAND: I would suggest, Mr. Chairman, that the representations made to this Committee in writing should be transferred to the Minister, and I think it would be advisable to give him until Tuesday in order to prepare an answer to these objections.

The Committee adjourned until Tuesday, February 16, at 10.30 a.m.



THE SENATE OF CANADA



PROCEEDINGS

OF THE

STANDING COMMITTEE

ON

RAILWAYS, TELEGRAPHS AND HARBOURS

ON

BILL B

An Act to establish a Board of Transport Commissioners
for Canada, with authority in respect of transport
by railways, ships, aircraft and motor vehicles

No. 3

The Right Honourable GEORGE P. GRAHAM, P.C.,
Chairman

WITNESSES:

- Mr. C. J. Burchell, K.C., representing the Provinces of Nova Scotia, New Brunswick and Prince Edward Island.
Mr. J. B. Dickson, Deputy Attorney General for New Brunswick.
Hon. A. S. MacMillan, Minister of Highways for Nova Scotia.
Mr. R. E. Finn, M.P., for Halifax.
Mr. G. P. Campbell, Toronto, representing certain steamship owners and operators.
Mr. D. R. Turnbull and Mr. Rand H. Matheson, representing the Maritime Board of Trade.
Mr. A. T. O'Leary, representing Interprovincial Steamship Lines.
Mr. Geo. R. Donovan, representing Union Transit Co., Ltd.
Mr. L. E. Reford, representing Montreal Board of Trade.
Mr. J. Stanley Cook, representing Montreal Corn Exchange.
Mr. F. E. Bolin, representing the trading section, Montreal Corn Exchange.
Mr. C. Gowans, representing transportation interests, Montreal Corn Exchange.
Mr. R. A. Carter, Agent, St. Lawrence Steamship Lines, Ltd.

COMMUNICATIONS:

- Telegram from the Sydney Board of Trade.
Telegram from the Glace Bay Board of Trade.
Telegram from the Associated Boards of Trade of Cape Breton Island.
Telegram from the Vancouver Merchants Exchange.
Telegram from Mr. N. M. Paterson, steamship operator.
Telegram from Vancouver Board of Trade.

OTTAWA

J. O. PATENAUDE, I.S.O.

PRINTER TO THE KING'S MOST EXCELLENT MAJESTY

1937

THE STANDING COMMITTEE ON RAILWAYS, TELEGRAPHS AND
HARBOURS

The Rt. Hon. GEO. P. GRAHAM, P.C., Chairman

The Honourable Senators

Arthurs	L'Espérance
Ballantyne	Logan
Barnard	MacArthur
Beaubien	Marcotte
Black	McDonald (<i>Shediac</i>)
Bourque	McGuire
Buchanan	McLennan
Calder	McRae
Casgrain	Meighen
Copp	Michener
Dandurand	Molloy
Dennis	Moraud
Farris	Murdock
Gillis	O'Connor
Gordon	Parent
Graham	Pope
Green	Rainville
Griesbach	Raymond
Haig	Robinson
Hardy	Sharpe
Harmer	Spence
Horner	Sutherland
Jones	Tobin
Lacasse	Turgeon
Laird	Webster—50.

(Quorum 9)

MINUTES OF EVIDENCE

THE SENATE,

TUESDAY, February 16, 1937.

The Standing Committee on Railways, Telegraphs and Harbours, to whom was referred Bill B, intituled "An Act to establish a Board of Transport Commissioners for Canada, with authority in respect of transport by railways, ships, aircraft and motor vehicles," met this day at 10.30 a.m.

Right Hon. George P. Graham, Chairman.

The CHAIRMAN: Gentlemen, we have a number of persons here to-day who wish to make representations concerning this Bill.

Hon. Mr. BLACK: Mr. Chairman, may I suggest that the gentlemen who are from the farthest points be heard first? There are some here from the coast, from Saint John and Halifax.

The CHAIRMAN: I think they appear first on the list, anyway. Is Mr. Sayre here?

Mr. F. M. SCLANDERS: Mr. Chairman and Gentlemen, Mr. Sayre is not here, nor is our President. I am the Commissioner of the Saint John Board of Trade, and I am here to say that Mr. Rand H. Matheson, Traffic Officer of the Transportation Commission of the Maritime Board of Trade, will speak for our city in common with other points in the three Maritime Provinces. I might add, Mr. Chairman, that the Board of Trade of Saint John is sincerely sympathetic with the Government. We recognize the difficulties, the intricacy and the importance of your railway problem. We do not want you to think we are here just to oppose, for we want to help also. I thank you, gentlemen.

Mr. RAND H. MATHESON: Mr. Chairman, Mr. C. J. Burchell, K.C., of Halifax, representing the Provinces of Nova Scotia, New Brunswick and Prince Edward Island, will lead off the case.

The CHAIRMAN: I did not think there were so many modest people in the Maritimes.

Mr. C. J. BURCHELL, K.C.: Mr. Chairman, I am representing the Government of the Province of Nova Scotia and, with Mr. Dickson, the Government of the Province of New Brunswick and the Government of the Province of Prince Edward Island. The brief that I have prepared is primarily on behalf of the Government of Nova Scotia, but is endorsed by the Governments of the three Provinces. Mr. Dickson will follow me on behalf of the Province of New Brunswick.

Hon. Mr. DANDURAND: What is the main point covered by your brief?

Mr. BURCHELL: I am dealing first with the provisions of Part II of Bill B, Transport by Water.

The CHAIRMAN: That is your chief aversion, is it not?

Mr. BURCHELL: That and Part VI, Agreed Charges. I shall want to say a few words on that.

The CHAIRMAN: We are more or less concentrating on water transport.

Mr. BURCHELL: All right, sir. The other point can be brought up at a little later stage.

The CHAIRMAN: Just go ahead as you wish; I am not trying to interfere with you at all.

Mr. BURCHELL: I think perhaps the Committee would understand me better if first of all I read the printed brief that I have here.

On behalf of the government of the province of Nova Scotia, I desire to state that they are opposed to the provisions of Part II of Bill B.

Part II of the Bill deals with transport by water. The government of Nova Scotia believes that the provisions of Part II are not acceptable to either shipowners or shippers of goods in Nova Scotia. If the Bill is passed in its present form, under Section 8 thereof, the Governor in Council would be authorized to bring the Bill into force in respect of the carriage of goods between any two ports in Canada. Indeed, under subsection (3) of Section 8, it would appear that the Act might even be brought into force with respect to the carriage of goods from Nova Scotia to foreign ports.

That subsection (3) reads as follows:—

The Governor in Council may on the recommendation of the Board by proclamation extend the application of this Part to transport by means of ships registered in Canada over any sea or inland water on or in respect of which this Part is in force between ports or places in Canada and ports or places outside of Canada.

It would appear from the explanation given by the Minister of Transport and from other information published in the press, that the original intention of the Bill and the main purpose which the Minister of Transport has in mind is the control of shipping on the Great Lakes of Canada.

Hon. Mr. DANDURAND: Down to Montreal?

Mr. BURCHELL: Yes. The Government of Nova Scotia appreciate the fact that the Great Lakes of Canada are practically a separate ocean in themselves. The larger ships operating on the Great Lakes, for the most part at least, remain there continuously and are therefore not employed during the winter months when navigation is prevented by ice conditions.

It should be pointed out, however, that even in respect of the Great Lakes, a considerable volume of goods produced or manufactured in Nova Scotia is shipped by larger steamers to Montreal and then trans-shipped by the smaller canal boats to points on the Great Lakes. If, by reason of the passing of this Bill, the free competition which now exists between vessels of this class is eliminated, it will almost certainly result in higher, transportation costs on Nova Scotia products, shipped to points on the Great Lakes, which have to be trans-shipped from larger steamers into canal boats in order to complete the transportation from Montreal to points on the Great Lakes.

If the Senate Committee decide that in the interests of Canada generally, and of the ship owners on the Great Lakes particularly, it is essential that this change should be made, although it would certainly result in increased cost of transportation for certain Nova Scotia products, nevertheless the Government of the Province of Nova Scotia will have to agree to the decision. It is suggested, however, that very strong evidence should be brought forward of the necessity for this change before the Senate Committee put this extra burden upon Nova Scotia products.

Right Hon. Mr. MEIGHEN: Inasmuch as there is transshipment at Montreal, any raise in cost of shipping from that point on will increase the whole burden on your products?

Mr. BURCHELL: Yes.

Right Hon. Mr. MEIGHEN: Would it work the other way too?

Mr. BURCHELL: Not so much the other way, I should think.

[Mr. C. J. Burchell.]

Right Hon. Mr. MEIGHEN: Would it not affect flour coming from Lake Erie ports for Nova Scotia, for instance?

Mr. BURCHELL: I think that would come down in the smaller boats and go right through.

Hon. Mr. DANDURAND: What about your coal production?

Mr. BURCHELL: A very large tonnage goes upwards. A million tons went into Ontario last year, but of course most of it went by rail although quite a large volume was shipped by water.

Hon. Mr. DANDURAND: The Maritimes are not very much interested in the question of imports. With the favourable railway rates that they have they are especially interested in rates for export.

Mr. BURCHELL: Large quantities of our mill feeds come down by water. We have seven Nova Scotia-owned steamers operating from the Maritime Provinces to the head of the Great Lakes, and they carry principally mill feeds down for our farmers.

On behalf of the Government of the Province of Nova Scotia, however, I desire to speak more particularly, and perhaps more emphatically, with respect to Clause 8 of the Bill, which would permit the Governor in Council to proclaim the Act in force in respect of shipments from Nova Scotia ports to any other port in Canada or indeed, under subsection (3) of Section 8, to any foreign port.

Isolated as Nova Scotia is from the rest of Canada, the problem which is perhaps the most important of all to our people is the problem of transportation. Unless the people in Nova Scotia can get cheap transportation for their natural products and manufactured goods, it is impossible for us to find a market for same in Central Canada. It is perhaps not putting it too strongly to say that the future prosperity of Nova Scotia under Confederation is solely dependent upon cheap transportation facilities to the markets of central Canada. If the cost of transportation is increased so that our people cannot sell their goods in central Canada, the Province will immediately go into decline, and especially so in these days of high tariffs which prevent the sale of many of our natural products and manufactured goods in foreign countries.

The Government of Nova Scotia believe that the doing away of free competition and the substitution of a tariff of tolls by a Board of Transport Commissioners will inevitably lead to increased transportation costs on goods which this province ships by water to the markets of central Canada. Water borne transportation is and always has been generally the cheapest method of carrying goods. Nova Scotia, with its numerous safe ports in practically all the counties of the Province, is in a happy position so far as water transportation is concerned. If, however, the full control of shipping rates is to be under the control of a Board of Transport Commissioners sitting at Ottawa, it is considered by the Government of the Province of Nova Scotia that the situation would become so confused and impossible and the business of both shipowners and shippers so manacled, that great loss would be suffered by the people of this province who are now engaged in the shipment of goods to the other provinces of Canada.

At the present time, under Article XI of the British Commonwealth Shipping Agreement, all British ships are entitled to engage in the coasting trade of Canada. People in Nova Scotia have therefore the benefit of employing not only Canadian ships but any British ship for the carriage of their products from Nova Scotia to any other port in Canada. The existing situation of free competition, in which all ships of British registry can engage, permits a comparatively low rate of freight to be obtained by our shippers.

Moreover, the rates of freight fluctuate almost daily, being regulated by the law of supply and demand and by the provisions obtainable as to return freight.

At the present time, if a shipper in Nova Scotia desires to send a cargo of goods from Nova Scotia, say, to Montreal, his method is to obtain information either directly or, which is more usual, through a broker as to ships which are available. The broker may locate a ship in France which is coming to Halifax with a cargo of French goods which may also be able to obtain a return cargo from Montreal to France.

The CHAIRMAN: You are dealing now with one of your chief problems?

Mr. BURCHELL: This is only one illustration.

The CHAIRMAN: Is not that one of the chief obstacles that you are afraid will prevent—

Mr. BURCHELL: The free chartering of ships.

The CHAIRMAN: And quick action?

Mr. BURCHELL: Yes.

The owner of that ship is therefore in a position to quote very favourable rates for cargo from Halifax to Montreal.

In the usual course a decision has to be made in a few hours as to whether a charter party is accepted. If the broker has first to apply to the Minister for a licence for a ship and the Minister has then to apply to the Board of Transport Commissioners and obtain their certificate of convenience and necessity this will cause great delay; but further, after the licence has been obtained the broker must then go back to the Board of Transport Commissioners and get the charter rate approved.

Hon. Mr. BLACK: The ship would be taken up in some other line of trade altogether.

Mr. BURCHELL: Yes. You have usually only a few hours in which to arrange a charter. Under this it would take two or three weeks to get the charter through.

It must therefore be quite obvious that the business of chartering ships would be so greatly delayed and hampered that it would be impossible to close a charter party within the time limits usually allowed for acceptance of same.

This is simply one illustration of many which might be given.

A large amount of tonnage has to be chartered each year for the carriage of Nova Scotia products to markets in central Canada, on which the freights vary from day to day owing to world conditions in the freight market. If a Nova Scotia manufacturer or producer has to apply to Ottawa and obtain the approval of his charter rate in each case, the situation would be simply impossible and business could not be carried on at all.

The Board of Transport Commissioners may be able to control the rates of freight on a railway in which the charges are known and are fairly constant. The control of water-borne freight, however, is an entirely different position. A railway cannot be built overnight, but British ships from any part of the world can be brought into Canada by cable advice when they are required to carry goods from Nova Scotia to other parts of Canada. The tariff of tolls in respect of such ships cannot be a fixture but must vary from day to day, dependent upon various conditions, such as return freight, availability of steamers, etc., etc. It must be remembered also that London is four hours ahead of us.

In order to properly supervise the operations of water-borne traffic, the Board of Transport Commissioners might have to remain in session in Ottawa continuously both day and night in order to give prompt assistance and allow business to be carried on expeditiously. A delay of a few hours may result in the loss of a ship which can be chartered at a low rate because of the availability of return cargo or for other reasons.

[Mr. C. J. Burchell.]

In respect of the coasting trade of Canada on the Atlantic coast and the St. Lawrence trade as far as Montreal, the fact must be kept in mind that Canada's position is unique and is perhaps comparable only to that of Russia. In the United States, in England and in other countries, ship-owners can engage in the coasting trade for twelve months of the year. In the Atlantic ports of Canada, with the exception of such ports as Halifax and Saint John, the coasting trade is closed for several months of the year owing to ice conditions. Any person owning or operating steamers engaged in the coasting trade from Nova Scotia to ports on the St. Lawrence is under a distinct handicap because of the fact that foreign employment must be found for the ships for several months of the year or the ships laid up during that period.

This creates a very distinct problem for the companies engaged in the transportation of coal from Nova Scotia to the St. Lawrence market. This is a problem which can only be dealt with by the Transportation Department of the interested companies. Any attempt at regulation by a Board of Transport Commissioners sitting at Ottawa would only tend to increase the difficulties of the situation.

The type of steamers which is used by the larger companies in the transportation of coal are of special design and are only suitable as coal carriers. They cannot be used in other employment. There are no steamers of this kind owned in Canada. Last year the Dominion Coal Company operated, I think, 16 ships and of these 14 were chartered. The English ship-owners can use these ships for carrying coal from England to Spain and other countries during the winter months, when it would be impossible for ships owned in Nova Scotia to obtain employment because we have no foreign market. The larger companies engaged in the coal business some years ago attempted to own and operate a fleet of their own, but this was found impracticable as no employment could be found for the ships during the winter months. The present practice therefore is to charter ships in London for this traffic. If the charter rate were to be fixed by the Board of Transport Commissioners and not by obtaining competitive offers from different ship-owners in London, the rate for the carriage of coal from Nova Scotia ports to the St. Lawrence trade must inevitably be increased, because we in Canada would be attempting to fix the rate which Englishmen are going to collect for the carriage of coal. Last year the charter rate on coal was 3s. 6d; this year it went as high as 8s. and 8s. 6d. It is a fluctuating rate. We do not expect to pay as much as that. The coal trade of Nova Scotia would therefore be seriously hampered and its operations prejudicially affected if control of water traffic from Sydney to Montreal or other St. Lawrence ports was placed under the control of a Board of Transport Commissioners at Ottawa.

There are many other commodities which are shipped from Nova Scotia to the markets of central Canada, in addition to coal, which are dependent upon cheap water transportation and which, if the existing water freight rates are increased, could not compete in the markets in central Canada.

Seven Nova Scotia owned and operated steamers, most of them especially built for the trade, are in continuous service during the St. Lawrence season carrying the products of the farm and of industry from Nova Scotia to the head of the Great Lakes and intermediate ports. Their return cargoes consist chiefly of mill feeds and mill products.

This trade would be seriously prejudiced by any increase in freight rates.

Not only the shippers but also the owners of all these steamers are opposed to control of the tariff of tolls by a Board of Transport Commissioners sitting at Ottawa.

Mr. O'Leary is here representing the Interprovincial Steamship Company, which operates a fleet of five steamers, most of them specially built for this trade.

With respect to clause 8, subsection (3) of the Bill—which I mentioned before—and which permits the Governor in Council to place in the Board of Transport Commissioners the control of rates on Canadian ships engaged in foreign trade, the situation of Nova Scotia shippers would also be seriously prejudiced if the Act is passed in its present form.

At the present time, by international agreement, in which all Maritime countries concur, a ship of any country is entitled to carry freight in and out of any country. This is a well established practice which should not and will not, we assume, ever be disturbed. It is referred to in paragraph 100 of the Report of the Conference on the Operation of Dominion Legislation and Merchant Shipping Legislation, 1929, which was approved by the Imperial Conference 1930, as follows:—

The CHAIRMAN: That will be subject to all customs regulations and laws.

Mr. BURCHELL: Oh, certainly. At the present time a ship of any one country can go into any other country and carry freight in and out, subject to local regulations.

The CHAIRMAN: That would be understood. The coastal laws might get them into trouble.

Mr. BURCHELL: I am talking now of international freight. I have dealt with coastal freight.

The CHAIRMAN: This is ocean freight now?

Mr. BURCHELL: Yes, I have left coastal freight for the minute. I have shown how that trade would be seriously prejudiced. I am referring now to the regulation of ocean rates on Canadian ships carrying goods from Canada to foreign ports. I cite now paragraph 100.

Uniform Treatment. (a) At present all British ocean-going ships are treated alike in all ports of the British Commonwealth and, as stated in the Resolutions of the Imperial Economic Conference of 1923, it is the established practice to make no discrimination between ocean-going ships of all countries using ports in the Commonwealth. In view of the importance that is attached to uniformity of treatment, it is recommended that the different parts of the Commonwealth should continue not to differentiate between their own ocean-going ships and similar ships belonging to other parts of the Commonwealth. Such uniformity of treatment is regarded as an asset of very considerable importance, especially for the purpose of negotiations with foreign governments who may seek to discriminate in favour of their own ships and against British Commonwealth ships.

Under this agreement, which is international in scope, the producers and manufacturers of Nova Scotia commodities have the benefit of free and open competition among ship-owners of all countries of the world in the carriage of their products to foreign countries. If, however, the Board of Transport Commissioners are given authority, as is proposed by section 8, subsection (3), to regulate the tariff of tolls between Nova Scotia and foreign ports, in respect of Canadian vessels, the benefit of this competition would be eliminated so far at least as Canadian vessels are concerned.

Right Hon. Mr. MEIGHEN: Would not subsection (3) if called into effect discriminate against Canadian ships not only as compared with others of the Commonwealth but as compared with foreign ships?

Mr. BURCHELL: I am just coming to that.

Nova Scotia owners of vessels engaged in this trade and the owners of all Canadian registered vessels would also be seriously prejudiced.

[Mr. C. J. Burchell.]

It is respectfully submitted that any attempt by the Parliament of Canada to control ocean freight rates would be a departure from the policy of the freedom of the Flag—a policy which has been approved by more than one Imperial Conference and which allows the ships of any country to carry ocean passengers and freight in and out of any other country in free competition.

It may be that your Committee may consider it necessary, on the information placed before them, to have subsection (3) of section 8 put in force with respect to the carriage of grain between Canadian and United States ports on the Great Lakes. If the United States Government had a similar provision in their legislation with respect to American vessels engaged in this trade it may be considered desirable to arrange between the two Governments to control this traffic on the Great Lakes. With respect, however, to Atlantic ocean ports this clause is a reversal of the policy which has been followed by Great Britain and by Canada for many years.

If the clause is approved with respect to the Great Lakes—that is outside our bailiwick—it is respectfully submitted on behalf of the Government of Nova Scotia that its operation should be confined to that area and that authority should not be given to the Governor in Council to make it applicable to ocean ports.

HON. MR. DANDURAND: When you say Great Lakes you mean as far down as Montreal?

MR. BURCHELL: Yes, between ports on the Great Lakes and Montreal.

The Government of the Province of Nova Scotia therefore respectfully ask the Senate Committee to amend the provisions of the Bill as follows:—

1. That if the Senate Committee consider it necessary and essential in the interests of Canada that there should be some restriction and competition in water-borne traffic in the Great Lakes, that the provisions of the Bill be so amended as to confine its operation wholly to traffic between ports on the Great Lakes. Of course by that I include Montreal.

The CHAIRMAN: Will you write out your suggested alternative amendment?

MR. BURCHELL: I shall be glad to do so.

2. That in considering the form which the legislation should take and the evils which the Bill is proposed to remedy, consideration should be given to the fact that a substantial amount of Nova Scotia commodities are carried from Nova Scotia to Montreal in larger ships and have to be transhipped in canal-size ships to ports on the Great Lakes. Any increase in the cost of transshipment by the removal of competition will prejudice Nova Scotia shippers.

3. That the Bill should be so amended in such a way as not to permit the Governor in Council to declare the Act in force with respect to the shipment of goods from Nova Scotia to any other port or ports in Canada. Of course, by Nova Scotia I mean the Maritime Provinces or anywhere in Canada outside of ports on the Great Lakes.

The CHAIRMAN: You are not bothering with the Great Lakes.

MR. BURCHELL: That is for the Committee to deal with.

Right Hon. MR. MEIGHEN: Do you cover Quebec ports?

MR. BURCHELL: I have not thought of going down as far as Quebec. I was thinking more of fresh water shipping.

HON. MR. BLACK: When you mention Nova Scotia, Mr. Burchell, you embrace the Maritime Provinces.

MR. BURCHELL: Absolutely. I prepared this brief for Nova Scotia. Since I have come here Mr. Dickson and others have communicated with me.

HON. MR. BLACK: And the same arguments apply to British Columbia?

MR. BURCHELL: To the three Maritime Provinces. I do not speak for British Columbia. I presume that province will be represented here.

Hon. Mr. DANDURAND: Have you finished?

Mr. BURCHELL: There is one other point I wish to make.

On behalf of the Government of the province of Nova Scotia, I would also like to suggest to the Committee that there is grave doubt as to the authority of the Parliament of Canada to license ships or to control tariffs in respect of the transport of passengers and goods from one port in Nova Scotia to another port in Nova Scotia. Section 92, subsection (10), of the British North America Act, contains the following provisions:—

92. In each province the Legislature may exclusively make laws in relation to matters coming within the classes of subjects next hereinafter enumerated, that is to say,—

10. Local works and undertakings other than such as are of the following classes:

- (a) Lines of steam or other ships, railways, canals, telegraphs, and other works and undertakings connecting the province with any other or others of the provinces, or extending beyond the limits of the province;
- (b) Lines of steam ships between the province and any British or foreign country;
- (c) Such works as, although wholly situate within the province, are before or after their execution declared by the Parliament of Canada to be for the general advantage of Canada or for the advantage of two or more of the provinces.

This clause would appear to indicate that lines of steamships between two points in any one province are wholly under the control of the provincial Legislature and not under the control of the Parliament of Canada.

Let me say frankly that this is an unexplored section of the British North America Act. Some people might say with respect to my profession that it is unexploited, but it will have to be interpreted some day, for as yet no court has decided upon it. But it says on its face that local works and undertakings are in the control of the provinces, but it takes out ships operating between the provinces or with foreign countries.

Hon. Mr. DANDURAND: Your conclusion is based on implication.

Mr. BURCHELL: It is based on the whole British North America Act. I do not speak with emphasis on this—I do not think any lawyer to-day can speak with emphasis on the British North America Act until we get before the Privy Council, and it decides.

Right Hon. Mr. MEIGHEN: No lawyer for the Dominion, anyway.

Mr. BURCHELL: Now, that is my submission with regard to transport by water. I have copies of the memorandum here, and should be glad to give them to the Committee.

The CHAIRMAN: Gentlemen, you have heard this very comprehensive explanation of the attitude of the Maritime Provinces.

I hope, Mr. Burchell, no matter how good a lawyer you may be, you will not take up time discussing the British North America Act.

Mr. BURCHELL: I am just throwing that out, Mr. Chairman.

The CHAIRMAN: Are there any questions?

Mr. BURCHELL: No. I want to speak on Part VI of the Bill, agreed charges. I am not going into the question of the advisability or otherwise of agreed charges. I do not want to discuss the merits of that. That part is taken over from England, and your Committee will have to wrestle with it.

[Mr. C. J. Burchell.]

What I want to say is that we are asking that our rates under the Maritime Freight Rates Act should be fully protected if you pass this section. I will have to go briefly into the Maritime Freight Rates Act, for, in our judgment, it is extremely important, perhaps more important than the point I have already dealt with. If this Parliament does anything to prejudice our rights under the Maritime Freight Rates Act, then we will be in an exceedingly serious position. When the Maritime Freight Rates Act was passed unanimously we had one of those celebrations that occurs very infrequently, and the whole of the populace of Halifax turned out. At the present time we look upon that Act as our life-line, the most important Act ever passed with respect to Confederation. Some people may think the Maritime Freight Rates Act was given to us out of sentiment. As a matter of fact, we got it because we were entitled to it.

The CHAIRMAN: You got it, anyway. That is the chief thing.

Mr. BURCHELL: And we want to hold onto it.

After consideration by legal men we very seriously contend that if these agreed charges are passed in the present form our rights under the Maritime Freight Rates Act will be taken away.

HON. MR. DANDURAND: Is not the end sought a reduction in rate?

Mr. BURCHELL: The Maritime Freight Rates Act is really the most important Act, we think, on the statute books of Canada to-day, and we do not want it prejudiced in any way.

I want to make just a brief statement. The Duncan Commission sat in 1926. At that time the Maritime Provinces generally were in a turmoil over Maritime rights, and so on. The Duncan Commission fairly well settled that question, and in 1927 gave us a new start. If it had not been for the Duncan Commission we would have been in a bad position, but we stood up very well, largely owing to the work of that Commission, which gave us new heart and new hope.

Let me read a paragraph from that report.

We think, however, that a balanced study of the events and pronouncements prior to Confederation, and at its consummation, confirms the representations submitted to us on behalf of the Maritime governments in regard to the ultimate construction of the railway, viz:—

- (a) That leading Canadian statesmen in urging the adherence of the Maritime Provinces to Confederation defined the purposes of the railroad to be
 - (i) A means of affording to Canadian merchandise, and to Canada herself in times of national and imperial need, an outlet and inlet on the Atlantic ocean—available all the year round—and
 - (ii) To afford to Maritime merchants, traders and manufacturers, a market of several millions of people instead of their being restricted to the small and scattered populations of the Maritimes themselves, particularly in the light of the disturbance with which their trade was threatened as the result of the discontinuance by the United States of the reciprocal arrangements that had prevailed.
- (b) That strategic considerations determined the actual course of the line—making it many miles (estimated by Sir Sandford Fleming at 250 miles) longer than was necessary—if the only consideration had been “to connect the cities of the Maritime Provinces with those of the St. Lawrence.”

- (c) That to the extent that commercial considerations were subordinate to national, imperial and strategic considerations, the cost would be borne by the Dominion and not by the traffic that might pass over the line.

Then the Duncan Commission goes into the period up to 1912, and says the interests of the Maritime Provinces were kept in mind by those fixing tolls on the Intercolonial Railway. After 1912 there was a rise in rates all over Canada, but in the rest of Canada the rates which were 100 became 155, whereas in the Maritime area they became 192. Sir Andrew Duncan and his commission recommended that the conditions which prevailed up to 1912 should be restored and that we should get an immediate 20 per cent reduction.

Right Hon. Mr. MEIGHEN: You could quote a higher authority than that.

Mr. BURCHELL: I was going to quote the preamble to the Act of 1927.

Right Hon. Mr. MEIGHEN: You could quote my speech of the year before.

Mr. BURCHELL: Thank you, sir.

Here is the preamble of the Act:—

Whereas the Royal Commission on Maritime claims by its report, dated September 23rd, 1926, has, in effect, advised that a balanced study of the events and pronouncements prior to Confederation, and at its consummation, and of the lower level of rates which prevailed on the Intercolonial system prior to 1912, has, in its opinion, confirmed the representations submitted to the Commission on behalf of the Maritime Provinces, namely, that the Intercolonial Railway was designed, among other things, to give to Canada in times of national and imperial need an outlet and inlet on the Atlantic ocean, and to afford to Maritime merchants, traders and manufacturers the larger market of the whole Canadian people instead of the restricted market of the Maritimes themselves, also that strategic considerations determined a longer route than was actually necessary, and therefore that to the extent that commercial considerations were subordinated to national, imperial and strategic conditions the cost of the railway should be borne by the Dominion, and not by the traffic which might pass over the line; And whereas the Commission has, in such report, made certain recommendations respecting transportation and freight rates, for the purpose of removing a burden imposed upon the trade and commerce of such provinces since 1912, which, the Commission finds, in view of the pronouncements and obligations undertaken at Confederation, it was never intended such commerce should bear—

We got that, as I say, as a matter of right.

The CHAIRMAN: We all agree that that was good, and so on, but why will this interfere?

Mr. BURCHELL: We get an immediate cut of 20 per cent. If rates were reduced on any commodity that would be no good to us unless the rates to markets to which we were shipping were kept relatively low. That is the position under the Maritime Freight Rates Act, section 8 of which provides that certain advantages shall be given to the Maritime Provinces. Now, section 22 of the Bill says:

Notwithstanding anything in the Railway Act, or in this Act or in any other statute—the Board of Railway Commissioners is to have authority to make an agreed rate for a period of a year, say, from Toronto to Montreal, and that agreed rate is supposed to be a lower rate. Unless we are 20 per cent below that agreed rate the provisions of the Maritime Freight Rates Act are lost to us. This Bill does not secure the protection given by the Maritime Freight

[Mr. C. J. Burchell.]

Rates Act, and we are asking that a clause be put in providing that nothing in this section shall be construed as derogating from the advantages in rates given to Maritime industries and shippers under the Maritime Freight Rates Act.

Hon. Mr. DANDURAND: You want the differential to be respected?

Mr. BURCHELL: Yes, and I think it is essential to provide for it, otherwise our rates will be very seriously prejudiced.

The CHAIRMAN: Are there any questions? Senator MacArthur, you are from Prince Edward Island. Is there anybody here representing the Island?

Hon. Mr. MACARTHUR: When this Bill was printed I immediately sent copies to the various Boards of Trade in our province and asked them to read it carefully and to send delegations or make representations in the form of a brief, or to write to me. I was not here at the commencement of Mr. Burchell's remarks, but I understand Senator Black asked Mr. Burchell if he represented Nova Scotia and New Brunswick.

Mr. BURCHELL: I mentioned Prince Edward Island also, before you came in. Mr. Campbell authorized me to appear.

Hon. Mr. MACARTHUR: I would just point out that Prince Edward Island is in an even more isolated position than Nova Scotia, with which Mr. Burchell has been dealing. We are separated from the mainland and are faced with the problem of transportation, the problem that has worried every administration since the days of the Fathers of Confederation. As you know, it is a big problem. We have smaller and fewer ports than Nova Scotia but for that very reason our difficulties are really greater. We are the biggest per capita consumers of any province in Canada, and I believe the biggest per capita producers, although I am not so sure about this latter point. The question of transportation is a vital one with Prince Edward Island. I want Prince Edward Island to be recognized, for while we are small we are a part of the Dominion. I have received no answer to my communications, but I am very glad to see the Maritimes so ably represented.

Mr. BURCHELL: Mr. Chairman, the Minister of Highways for Nova Scotia, Hon. A. S. MacMillan, is here.

Hon. Mr. MACARTHUR: Did you hear anything from the Summerside Board of Trade, Mr. Burchell?

Mr. MATHESON: No, but we did hear from the Charlottetown Board of Trade.

The CHAIRMAN: Does anyone wish to ask Mr. Burchell any questions? If not, perhaps we may hear Mr. Dickson now.

Mr. J. B. DICKSON, of Fredericton, New Brunswick: Mr. Chairman, on behalf of the Province of New Brunswick, I wish to state that we are opposed to the application of the Bill to shipping from New Brunswick ports to Central Canada.

The CHAIRMAN: I presume you are going to supplement what Mr. Burchell has said? We do not want the same thing said over again, of course.

Mr. DICKSON: I will take your hint, Mr. Chairman, and try not to repeat. New Brunswick is in exactly the same position as Nova Scotia. I have had an opportunity of perusing carefully the able brief submitted by Mr. Burchell on behalf of the Province of Nova Scotia, and we in New Brunswick adopt that as our brief on this subject. I will not detain you very long.

The CHAIRMAN: Take all the time you wish.

Mr. DICKSON: Because of the geographical position of our province, cheap transportation is particularly essential to us, and anything which will tend to increase rates between New Brunswick and the markets of central Canada must

be a detriment to New Brunswick. A few years ago our situation became acute, and as the result of continued representations the Duncan Commission was appointed. As a result of that Commission's findings and recommendations, which are familiar to us all, the Maritime Freight Rates Act was passed, affording us a certain measure of relief. But unhappily we have been obliged since then to be ever on the alert to guard against this relief being taken away by manipulation of freight rates in other parts of the Dominion. Under these circumstances it is only natural to expect that we shall look with suspicion on any legislation that may have the effect of increasing rates, and we can see no other effect if this Bill is made to apply to New Brunswick.

It may be essential that there be regulation of shipping on the Great Lakes, but if that is the case the law should be made to apply to the Great Lakes only and not to shipping between New Brunswick and central Canada.

We are particularly opposed to Part VI of the Bill, which has been referred to by Mr. Burchell, that is the part relating to Agreed Charges. It would seem that this is an instrument which the government is placing in the hands of the railways to force competition by means of other lines of transportation out of existence. Every manufacturer or shipper must use the railways at certain seasons of the year. Probably they use the railways to a greater extent than any other means of transportation, and probably they use the railways to some extent the year around. This Bill would enable the railways to say to a shipper, "In order to get the agreed charges, you must give us all your business." In that way other means of transportation could be shoved off the map. What is going to happen if other means of transportation are put out of business? What would that mean to us? Are we going to get anything much through agreed charges?

I am only repeating what Mr. Burchell has said regarding the Maritime Freight Rates Act and its application to the Maritimes. If it becomes necessary to allow these sections regarding agreed charges to pass, either in their present form or in an amended form, it is highly essential to our prosperity that the benefits we have derived through the Maritime Freight Rates Act should be safeguarded.

The CHAIRMAN: Are there any questions?

Hon. Mr. MACARTHUR: May I ask Mr. Burchell why he thinks there will necessarily be increased rates under this Bill?

Mr. BURCHELL: The important thing is that the Bill would do away with free competition, and the inevitable result would be an increase in rates. That is our view.

The CHAIRMAN: Is Mr. Ross Gray, M.P., in the room?

Mr. GRAY: Yes, Mr. Chairman.

The CHAIRMAN: Have you someone with you?

Mr. GRAY: Mr. G. P. Campbell will present a brief, sir.

The CHAIRMAN: Mr. Campbell is down on the list to be called a little later. I will call now upon Hon. Mr. MacMillan, Minister of Highways of Nova Scotia.

Hon. A. S. MACMILLAN, Minister of Highways, Nova Scotia: Mr. Chairman and Gentlemen, I may say in the first place that I am not in Ottawa for the purpose of appearing before this Committee. I have other business here, but a little later I may appear with respect to transportation on highways. There is nothing I can add to what Mr. Burchell has said. I think it is quite evident that he knows his subject very well. Perhaps there is no one in Nova Scotia who is more familiar with the subject of shipping by water than Mr. Burchell is, so I would not attempt to enlarge on his statement. I am sure that the people

[Mr. J. B. Dickson.]

of Nova Scotia, indeed of the Maritime Provinces, are very anxious on the subject-matter of this discussion and will watch the attitude of the Senate with respect to the Bill. I agree with everything Mr. Burchell has said and only hope it will have the desired effect.

Right Hon. Mr. MEIGHEN: Mr. MacMillan, is there any important motor traffic between Nova Scotia and New Brunswick or New Brunswick and Nova Scotia and Quebec?

Hon. Mr. MACMILLAN: As you know, we are situated differently from any other province in Canada, as the entrance to Nova Scotia is just a narrow neck of land. But there is considerable transportation of coal between Nova Scotia and New Brunswick by motor truck from the mines and Cumberland county into a part of New Brunswick, which would be affected. But that is a matter we can discuss at a later date. Outside of bus lines and coal traffic there is not very much more that would be affected.

The CHAIRMAN: Shall we now hear Mr. Finn of Halifax? We want to keep down the discussion as much as possible, but on the other hand we do not want to shut out anyone who has anything to say to us.

Mr. R. E. FINN, M.P.: Mr. Chairman and Gentlemen, I am very glad to have heard my good friend, the leader of the Opposition in the Senate, and an ex-Prime Minister, Right Hon. Arthur Meighen, say what he has said—

Hon. Mr. DANDURAND: I should like to correct you on one point. There is no Opposition in the Senate.

Mr. FINN: I did not say there was. I was mentioning the leader of the Opposition in the Senate, the Right Hon. Arthur Meighen, who referred to a speech that he made in the House of Commons. I heard it. This morning I have listened to the able brief presented by Mr. Burchell, and to the remarks made by Mr. Dickson and my good friend from Nova Scotia, Hon. A. S. MacMillan. I desire to say that I have been through the freight rates question from 1917 until 1925, before the Board of Railway Commissioners for Canada. And I want to point out that the 20 per cent decrease in Maritime freight rates was due very largely to an honourable gentleman who once sat in the House of Commons and who was Chairman of the Board of Railway Commissioners, the Hon. Frank Carvel of New Brunswick. He had written a judgment, under which a 20 per cent decrease in freight rates was to be made applicable to the Maritime Provinces, but at the time of his untimely and sudden death his judgment had not been signed, so it did not go into effect then. I participated in the argument on that occasion, along with representatives of all the provinces of Canada, from Nova Scotia to British Columbia. The 20 per cent decrease was later recommended by the Duncan Commission, and applied under the Maritime Freight Rates Act. I urge that that decrease should be preserved in no uncertain way. I well remember one evening in the House of Commons when Sir Henry Drayton, who once was Chairman of the Railway Commission, said that geographical disadvantages should not be taken into consideration in the fixing of basic freight rates. The Railway Commission differed with him on that point. As stated by my friend and colleague in the profession, Mr. Burchell, K.C., the Intercolonial Railway was built to suit the wishes—and perhaps some of the whims—of the then British Government, and the route selected was so far away from the American border in order to make safe our transportation in the event of invasion by the country to the south of us. That danger has passed, but we have suffered that disadvantage of the 250-mile longer haul of which Mr. Burchell spoke. That disadvantage has been removed to an extent—not perhaps fully as it should have been—by the Maritime Freight Rates Act.

Now, in reference to ocean and lake shipping, I would point out that at the present time there is a Bill before the House of Commons which, if enacted, will require ship-owners to engage two pilots. This is a most important question, and the Hon. Minister of Railways has assured me that an opportunity will be given for parties interested to be heard.

There is another important point to which I would direct your attention. To-day we have a large number of foreign ships engaged in Canadian trade, both on the St. Lawrence, along the coast of Nova Scotia, up the Bay of Fundy, and in the Great Lakes. Those foreign ships use our canals free of cost. It may be said that the favoured-nation clause excludes us from preventing their carrying goods from one part of the Empire to another. But if we enter into a treaty, from which the greatest advantage accruing to the people of Canada would be not more than \$10,000, nevertheless that country's shipping can use our ports. It is only a few days ago that I read in the newspaper an account of a foreign ship so old that it broke in two, and but for the fortunate fact that other vessels were in the neighbourhood all the crew would have been drowned.

There has been at one time and another a great deal of opposition to the operation of our Canadian National steamships between Canadian ports and the West Indies, on the ground that the people of Canada have to pay the deficit, if any. In this connection I would point out that Canadian goods and raw materials are carried in foreign ships, while our own ships are idle. I hope this Committee will recommend that this matter be dealt with. I do not think we should confine ourselves to shipping on the Great Lakes or on the St. Lawrence river down to Montreal, Sorel or Gaspé. We should direct our efforts to ensure, so far as we can, the carriage in British or Canadian ports, and of Canadian goods from our ports to all parts of our sister Dominions.

These are the points I desire to bring to your attention. I am glad to have had an opportunity of paying tribute to the late Chairman of the Board of Railway Commissioners, Hon. Mr. Carvell, whose freight rates judgment was not delivered because of his untimely death. I think the Duncan report in reference to the 20 per cent decrease was based largely on that judgment. The Duncan Commission applied the decrease to both railway systems because we had for forty-three years enjoyed the differentials that were taken away from us under Order in Council by the Government of the Right Hon. Sir Robert Laird Borden in 1917, when after the McAdoo Award of 25 per cent, the Chicago Award of 45 per cent and the general increase of 25 per cent, he instructed the Railway Commission to raise the general freight rate structure of Canada. This action shut the Maritime Provinces out of the central markets of the Dominion and gave our industry a great set-back.

I have thought it advisable to say these few words in behalf of the Maritimes Provinces—those extremities of the Dominion that sometimes seem to be not a factor in the minds of those who live in central Canada, and particularly some of those who were not here in the days of Confederation, but who to-day are reaping the benefit of that agreement, while we in the Maritimes are reaping what at times I might term the whirlwind. I thank you, Mr. Chairman and gentlemen.

The CHAIRMAN: Mr. Campbell, we shall be glad to hear from you.

Mr. G. P. CAMPBELL: I am representing, Mr. Chairman, the following companies:—

Upper Lakes & St. Lawrence Transportation Co. Limited,
Blue Line Motorships Limited,
Northland Steamship Co. Limited,
Norris Steamships Limited,

[Mr. R. E. Finn.]

Mohawk Navigation Co. Limited,
 International Waterways Navigation Limited,
 North American Transports Limited,
 Inland Lines Limited,
 Quebec and Ontario Transportation Co. Limited,
 Hall Corporation of Canada,
 Colonial Steamships Limited,
 Union Transit Limited,
 Huron Steamships Limited,
 MacKellar Steamships Limited,
 Sarnia Steamships Limited,
 Western Navigation Co. Limited,
 Lake Steamship Co. Limited,
 Foote Transit Co. Limited, and
 Arrow Steamships Limited.

They are owners and operators of seventy-five ships, commonly called "bulk freighters," engaged in the coasting trade of Canada and having a combined wheat-carrying capacity of approximately 7,300,000 bushels per trip.

I have prepared a brief memorandum, which I think fits in pretty well with what Mr. Burchell has said. I am not dealing with the package freighters.

Before reading the memorandum which I have prepared, I may say that we have made a very careful study of the provisions of this Bill, in the hope that we might make some worthwhile contributions to the Committee.

The provisions of this Bill in respect of transport by water should be divided into three parts for the purpose of considering its effect upon bulk freighters. The Bill is recognized as one of great importance to Canada; its provisions affect not only those engaged in the transportation business but prime producers, manufacturers and every citizen in Canada. The Bill undoubtedly has some good features but few people have had an opportunity to really study its effect upon general business conditions in Canada. It is somewhat revolutionary in character particularly with respect to shipping. The Bill has been considered by the parties I represent with a view to ascertaining its workability so far as it relates to transportation by water in the hope that it would prove workable and bring about some stability in freight rates. After careful consideration we have come to the conclusion that the Bill is not practical or workable in its present form. We propose therefore to deal with the three phases of the Bill separately:—

Firstly: Provisions in the Bill designed to control or restrict the free operations of ships. 1. The provisions of section 5 of the Bill give the Minister of Transport power to license ships by granting a licence to the ship or to the owner or lessee. Such licences may apply to one or more ships. The Minister is also given power to state the ports between which the ship or ships named in the licence may operate and the schedules of service to be maintained.

Under the provisions of this section Canadian registered and British registered ships could be refused a licence to operate freely between ports in Canada. The Minister would have power to designate the ships entitled to operate from the head of the lakes to Port Colborne, and from Port Colborne to Montreal. He could prevent ships now operating between all ports in Canada on the Great Lakes from so doing.

One would not think it possible that the Bill should be so broadly drafted, but this is subsection (4):—

The Minister may in the license state the ports between which the ship or ships named therein may carry goods or passengers and the schedule of services which shall be maintained.

This is entirely revolutionary so far as ships are concerned. Ships have generally been recognized to be free to trade wherever there is cargo available.

2. Subsection 5 of Section 5 prohibits the Minister from issuing a licence unless the proposed service of the ship is required as a public convenience and necessity. On account of the surplus tonnage operating on the Great Lakes to-day, it is not necessary that all ships be operated. One or two large fleet owners could procure a licence to operate their ships and contend that the Minister had no power to grant further licences. The provisions of this section are of a revolutionary character with respect to the operation of ships and could have the effect of putting small fleet owners out of business. It is essential to the life of the shipping business that ships be permitted to operate freely, and particularly so in the case of bulk freighters.

I may say, in fairness to the Minister, that I discussed some parts of these sections with him, and I understood him to say that the restrictive provisions in subsection 4 were not intended to apply to bulk freighters, but were chiefly concerned with passenger freighters where there was a regular service. But I might point out that the Bill as it stands gives the Minister power to restrict the operation of ships, and subsection 5 requires that the Minister shall, before he issues the licence, obtain a certificate from the Board showing that this service is required. I submit it should not be contemplated that the boats now operating should be deprived of continuing simply because there is some surplus tonnage operating on the lakes.

The provisions of section 5, if applied so as to restrict the ports between which certain licensed ships could operate, would be contrary to the provisions of the British Commonwealth Merchant Shipping Agreement entered into between various members of the British Commonwealth in 1931. Under this Agreement, all ships registered in the British Commonwealth are to be treated equally. It is submitted, therefore, that any ship registered in Great Britain, Canada or any other part of the British Commonwealth is entitled to trade freely between Canadian ports.

I may just say in passing that it is a fact that a great many of the ships at present engaged in the coasting trade in Canada are ships of British register owned by Canadian companies. Under a literal interpretation of the Bill I think it might be contended that Canadian ships were restricted in some way but that the British-registered ship would have a right to trade freely between any ports on the Great Lakes. The following provisions from the agreement should be considered:—

Article 10—Each part of the British Commonwealth agrees to grant access to its ports to all ships registered in the British Commonwealth on equal terms and undertakes that no laws or regulations relating to sea-going ships at any time in force in that part shall apply more favourably to ships registered in that part, or to the ships of any foreign country, than they apply to any ship registered in any other part of the Commonwealth.

Article 11—While each part of the British Commonwealth may regulate its own coasting trade, it is agreed that any laws or regulations from time to time in force for that purpose shall treat all ships—

It might be contended that in the issuing of these licences, ships could be classified, but there is no means by which they can be classified. I think Mr. Howe referred to upper lakers which formerly could not come below Port Colborne, and said they could come down with grain. The British Commonwealth Agreement does not classify ships. It says:—

—shall treat all ships registered in the British Commonwealth in exactly the same manner as ships registered in that part, and not less favourably in any respect than ships of any foreign country.

Right Hon. Mr. MEIGHEN: Do you mean to say that under that agreement, which provides merely for equality of treatment there could not be a licensing system applicable to all classes?

Mr. CAMPBELL: No. In my opinion it is quite within the power of the Dominion to pass legislation affecting the coasting trade so long as it does not attempt to restrict the operation of shipping.

Right Hon. Mr. MEIGHEN: Of any single ship?

Mr. CAMPBELL: Of any single ship. Any ship is entitled to trade freely between ports under the agreement, but no ship can be required to take out a licence before entering a Canadian port.

Right Hon. Mr. MEIGHEN: But it would be entitled to get a licence?

Mr. CAMPBELL: It would be entitled to get a licence.

Subsection 6 of section 5 prohibits the issuance of a licence to a ship imported into Canada and constructed more than ten years before such importation. This provision is greatly needed in Canada as there is a surplus tonnage operating on the lakes to-day, and the importation of obsolete foreign tonnage should be prohibited. This provision should, therefore, be left in the Act or embodied in the Customs Act or the Canada Shipping Act and brought into immediate force.

We feel very strongly on that point. As the Minister pointed out, in recent years a number of obsolete foreign built ships have been imported into Canada, a practice which should be stopped. I think I advocated some amendment to the Canada Shipping Act when it was before the Senate. Such a provision was not carried into the Act, however. I may say that as far as the United States is concerned a foreign built ship cannot be imported there and coast. Probably this section does not go far enough when it refers to a ship ten years old; however, I think the section should be put into force.

It is submitted that the provisions of the Act interfering with the free operation of ships already engaged in the coasting trade of Canada should be deleted from the Bill. It is therefore suggested that a provision be added as subsection 7 in somewhat the following language:—

Provided, however, that subsection 4, 5 and 6 of this section shall not apply in the case of a ship engaged in the coasting trade of Canada at the date this Act is assented to.

In other words, the rights of the parties at present engaged in the coasting trade in Canada should be preserved. In subsection 6 there is a reservation so far as ships now imported into Canada are concerned. I think that the same reservation should apply to subsections 4 and 5. It would preserve the rights of those who at present have ships operating in Canada.

Right Hon. Mr. MEIGHEN: That all goes by the board if you are right in your first argument.

Mr. CAMPBELL: I realize that, except that it might be worded "ships presently entitled to engage in the coasting trade in Canada." In other words, if ships at present entitled to engage in the coasting trade in Canada are, under certain regulations, entitled to coast, so far as all future ships are concerned both Canadian and British ships must comply.

Right Hon. Mr. MEIGHEN: If you are right in your interpretation of that treaty you could not do it.

Mr. CAMPBELL: There is some doubt about it.

Right Hon. Mr. MEIGHEN: There is a free right of coasting given to all ships of the Commonwealth.

Mr. CAMPBELL: That was my first reading of it, and I was trying to work out some amendment that you might hang your hat on. I would simply say as a matter of argument that if you said that all ships presently entitled to engage in the coasting trade would be entitled to a licence, then, all future ships of British register, Canadian register—

Mr. O'CONNOR: Is not that an anti-discrimination clause?

Mr. CAMPBELL: Yes.

Mr. O'CONNOR: Then the treaty ships would be subject to the local laws of the members.

Mr. CAMPBELL: Well, I cannot agree with that interpretation of the agreement.

Mr. O'CONNOR: I mean the local laws passed by Canada applicable to all ships.

Right Hon. Mr. MEIGHEN: Of the Commonwealth.

Mr. O'CONNOR: No, all ships, so long as you do not discriminate against the non-Canadian ship.

Mr. CAMPBELL: Let me give you an illustration. Supposing you should attempt to issue a licence to an upper laker, say, to coast between Fort William and Port Colborne, and should say to a canaller, "You are entitled to coast from Port Colborne to Montreal, Quebec," and so forth. I think a ship of British register could quite properly come in and say, "We are entitled to coast between Montreal and Port Colborne, and from Port Colborne to the head of the lakes, because you have granted a right to other ships to coast there."

Right Hon. Mr. MEIGHEN: After you have admitted all ships, as you state, and subsequently a British ship gets a licence, how are you going to prohibit an Australian ship from getting one the next day?

Mr. CAMPBELL: I do not think you can.

Right Hon. Mr. MEIGHEN: I do not think you can, Mr. O'Connor. That will apply to any regulation, but not to the prohibition of a ship. Total prohibition is a different thing from regulation.

Mr. O'CONNOR: As I understand Mr. Campbell, he says you may impose a licensing system, but that it must be one which treats all ships alike.

Right Hon. Mr. MEIGHEN: And be such that anybody who complies with the terms can get a licence.

Mr. CAMPBELL: That, I think, deals with the first phase of the Bill with respect to the free operation of ships.

The next provisions of the Bill are designed to regulate and control tariffs, tolls and charges.

Canadian bulk freighters presently engaged in the coasting trade of Canada derive approximately two-thirds of their earnings from the transportation of grain. Grain freight rates vary constantly according to supply and demand, and any inflexible rules or regulations prohibiting the changing of rates would result in a loss of business to Canadian ship owners. Grain is always transported by the cheapest route, and the proposed Act cannot control the cost of transportation over all competitive routes, such as:—

- (i) Via Buffalo and the Erie Barge Canal;
- (ii) Direct shipment from lakehead to European ports on ocean tramp steamers;
- (iii) Via Hudson Bay route;
- (iv) Via Vancouver and other Pacific ports.

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During the past two years and since the passing of the Canada Shipping Act prohibiting the transfer of grain at Buffalo while in transit from lakehead to Montreal, Canadian ships have carried most of the grain from lakehead. The freight rate varies during a season of navigation depending upon the grain supply and demand. In certain seasons when there is little demand for grain for export, shippers are not inclined to move grain forward to Montreal and other ocean ports unless they are able to get a low freight rate. In order to keep ships operating, it is therefore necessary that procedure for the alteration of rates, either downward or upward, be such that changes can be made without delay.

Now, any person having had any experience in shipping will realize how extremely difficult it is to maintain a uniform fixed rate that is not flexible, particularly in the situation in which we find ourselves with United States tonnage able to come in to the head of the lakes and to take grain from there to the American ports. Some years ago when the Shipping Act was designed, as Senator Meighen and other gentlemen will remember, the coasting laws were changed so as to prevent the movement in American ships from the head of the lakes to Buffalo, and from Buffalo to Montreal. Since that time we have increased the movement of grain in Canadian ships and through Canadian elevators. Some people argued at that time that there would not be sufficient competition, and that rates would go high. That has not been the case.

United States ships operating from a Canadian port to an American port cannot be controlled under the present Act and in some cases are in direct competition with Canadian ships. It is a known fact that these United States ships, when not engaged in the ore trade, offer to carry grain from the head of the lakes to Buffalo and other American ports at low rates. If Canadian ships are restricted by rules and regulations which prevent them from dealing with their own problems in this connection, more Canadian grain will undoubtedly be transported in United States ships through United States ports.

I may just say in passing, to show you how such legislation is regarded in the United States, that the Interstate Commerce Commission never attempted, or never successfully attempted, to get control over the freight rates on bulk commodities. They have some control over the movement of package freight between railway points, but so far as ships engaged in the bulk-carrying business are concerned, they are free to operate between Canadian and American ports, and there is no restriction on the other side.

Water transportation is essential to the grain trade of Canada and any rules and regulations affecting ships engaged in this business should be carefully studied and prepared in consultation with the grain shippers, elevator operators and ship owners, and not by any Board unfamiliar with the peculiar problems relating to transportation by water. I might say again, in passing, that it is important to the grain trade to have a flexible freight rate that can be changed to meet changing conditions.

The provisions of the Railway Act and the rules and regulations of the Board of Railway Commissioners deal with tolls, tariffs and rates with respect to the operation of railways and are not appropriate for the operation of ships.

The CHAIRMAN: You think that trade by water cannot be controlled by any restrictive regulations?

Mr. CAMPBELL: I cannot see how it can be done. We of course are very much in sympathy with stabilization of rates, if it can be accomplished without ruining the business, but we cannot see how it would work. Some inflexible machinery might be set up requiring rates to be filed, but the machinery requiring three days' notice to lower a rate and thirty days' notice to raise a rate, would be disastrous to vessels. Consider the cost of keeping a vessel on the Lakes, with thirty or forty men on board. It is essential to the life of the business that ships be free to go and come at whatever the prevailing rate is.

Hon. Mr. DANDURAND: You say the "prevailing rate," but you mean the rate the owners are prepared to accept?

Mr. CAMPBELL: The obtainable rate, that is probably the better way to put it.

The problems with respect to shipping which must be considered by the Board are of an entirely different character from those affecting railways, particularly with respect to the following:—

(a) Ships engaged in carrying most bulk commodities do not and cannot maintain regular schedules with regular and uniform rates;

(b) The procedure required to be followed under the Railway Act to lower a rate is understood to require three days' notice and in order to raise a rate thirty days' notice. This procedure could not be followed by those engaged in water transportation;

(c) The settling and filing of tariffs by railways is in the hands of experienced persons who have dealt with these questions before the Board and are familiar with the procedure and affect only two railways, whereas there are a great many ship owners engaged in the business having no Department to deal with these tariff and traffic problems;

(d) The costs of operating vessels engaged in competitive business vary greatly and are affected by weather conditions, continuity of operations, loading and unloading facilities, speed of the vessel and whether or not return cargoes can be obtained.

The above factors together with many others would have to be taken into consideration by the Board in determining questions with respect to the reasonableness of rates. Under the present rules of procedure it might take weeks to determine these questions before the Board. It does not, therefore, seem practical to subject licensed ships to such procedure.

These factors are, I submit, extremely difficult for any board to take into consideration. A person who has a continuity of business, with both downward and upward movement, might derive a very fine revenue out of a low rate, whereas another person, who had a movement in one direction only, would have to charge an entirely different rate.

The costs of a hearing before the board to determine whether a tariff of tolls is reasonable and just and whether or not there is discrimination would be prohibitive to the small vessel owner.

The owners of large fleets of ships might have an advantage over smaller fleet owners in offering continuous service in broken lots and by offering to delay or expedite deliveries for the benefit of the shipper, such as holding grain in ships and saving the shipper storage charges. The flexibility of rates now enjoyed by all shippers enables the smaller fleet owner to compete for business.

It is therefore submitted that in the interests of the industry and shippers, no attempt should be made to fix or control tolls, rates and charges with respect to transportation by water until rules and regulations affecting such matters and the procedure to be followed before the board is approved by those engaged in the business of transportation by water. It is also suggested that the personnel of the Board of Transport Commissioners for Canada be considered having regard to the extended powers of the board over all forms of transportation.

Now, thirdly, I will deal with provisions in the Bill designed to control and regulate private contracts with respect to the carriage of goods, under Part VI of the Bill.

The provisions of this part of the Bill would not appear necessary so far as the operation of ships engaged in the transportation of bulk commodities is concerned. If a shipper can obtain a lower rate by diverting all his business through one channel, any other shipper of similar commodities should have the same privileges irrespective of the quantity to be moved or the terms of the

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contract. If shippers are to be given the right to obtain a special rate by contract, certain carriers would in this way be enabled to give lower rates under the guise of a contract, which might have the effect of endangering the whole rate structure, particularly so with respect to grain shipments, as any fractional change in the cost of transportation might prove very detrimental to other shippers or ship owners engaged in similar business.

The rules and regulations of the Board of Railway Commissioners do not deal with the procedure to be followed by the Board under Part VI of the Act. The following matters should therefore be considered:—

(a) The length of notice required to be given under subsection 2 of section 22, and the persons who shall be entitled to receive notice. It is suggested that all persons whose business might be affected should receive notice of the filing of application. I think I am correct in stating that the machinery is yet to be decided upon, so far as giving of notice of filing of private contracts and applications. I do not think the present rules of the Board of Railway Commissioners would apply in such a case.

The CHAIRMAN: I think the Chairman of the Board discussed that a little the other day.

Right Hon. Mr. MEIGHEN: Do you think any practicable regulations could be framed?

Mr. CAMPBELL: That is a difficult question. I have tried my best to work out some regulations and have not been able to do so. I may say that one of the great difficulties in connection with analysing this Bill has been caused by the fact that many owners are away at the present time. So Mr. Donovan and I have more or less had to take the responsibility of working on this thing and keeping in touch with our other parties by telephone. I think that some Act might ultimately be designed which would stabilize rates. It would have to be done with co-operation of all the vessel owners.

Right Hon. Mr. MEIGHEN: The first part of your argument seemed directed to the view that that could not possibly be done.

Mr. CAMPBELL: I say I do not think it is possible to do it at all with this machinery. I think if all the owners of vessels were to get around a table, that you could have stabilization.

Hon. Mr. BLACK: You would not suggest that it be done by legislation?

Mr. CAMPBELL: No.

Hon. Mr. BLACK: You suggest that it is a matter on which they should get together themselves.

Mr. CAMPBELL: Yes. That seems to me to be the only means of solution.

Hon. Mr. BALLANTYNE: Do you think that ship owners sitting around a table would ever come to an agreement as to tying up tonnage?

Mr. CAMPBELL: Efforts have been made but so far that objective has not been reached.

Hon. Mr. BALLANTYNE: I should say the day of miracles had arrived if they could do that.

Hon. Mr. DANDURAND: Will you explain to me the difference between regulation and the freedom of action? You have said, "If shippers are to be given the right to obtain a special rate by contract, certain carriers would in this way be enabled to give lower rates under the guise of a contract, which might have the effect of endangering the whole rate structure, particularly so with respect to grain shipments." Now, if there is freedom of action and a ship owner accepts a lower rate than others accept, does that not affect the whole structure?

Mr. CAMPBELL: Yes, it does.

Hon. Mr. DANDURAND: If there is not a special agreement which may be extended to all competitors, is not your business facing disruption through the action of any small company offering a cheaper rate and thereby affecting the whole structure of transportation on the Great Lakes?

Mr. CAMPBELL: You would have a large vessel owner who could make a contract for the carriage of a large quantity of grain. So far as grain is concerned, a quarter of a cent per bushel in the cost of transportation is extremely important. If a vessel owner says to a shipper, "I will take all your grain for the whole season at five cents a bushel," the other operators during the summer season would have to charge no more than that price, or they would not get any business.

Hon. Mr. DANDURAND: If you leave ship owners free, then any one of them can fix any rate he pleases?

Mr. CAMPBELL: Oh, yes.

Hon. Mr. DANDURAND: And disorganize the whole structure.

Mr. CAMPBELL: But it is open competition.

Hon. Mr. MACARTHUR: Is there a free-for-all among the shippers now, or is there a cartel?

Mr. CAMPBELL: It is pretty much a free-for-all. An attempt has been made several times to have a gentleman's agreement. I might say that so far as control of rates from the head of the Lakes to Montreal is concerned, there has been a gentleman's agreement that they will not take the business at less than a certain rate. But a Canadian shipper can say, "Although I will not carry to Port Colborne or Montreal at anything less than we agreed upon, I will move to Buffalo at a lower rate." Last year I believe grain was moved to Buffalo at a cent and three-quarters. If someone attempts to move grain down from the head of the Lakes to Buffalo at a lower rate, the others have to follow in order to get business.

Right Hon. Mr. MEIGHEN: In a word, the American route provides such a competition for you that no matter what you agree upon it cannot be maintained?

Mr. CAMPBELL: Yes, that is so.

I have already said that the rules and regulations of the Board of Railway Commissioners do not deal with the procedure to be followed by the Board under Part VI of the Act. And I have suggested one matter that should be considered. Other matters that we submit should be considered are:—

(b) Under subsection 3 of section 22, the Board has power to approve the agreed charge and make it effective from the date on which the application for approval was lodged, although no time is fixed within which the application will be heard. In other words, you might find your application would not be heard for a period of thirty days, and the rate would be approved to take effect as of the date the application was lodged. In the grain business that would be disastrous.

(c) Under subsection 4 of section 22 only a carrier of the same class is entitled to be heard on application to the Board for approval of an agreed charge, whereas the interests of other carriers might be adversely affected by the agreement. Under this same subsection it would seem that the only other person entitled to be heard is the trader or body of traders whose business or businesses will be unjustly discriminated against, or whose business or businesses have been unjustly discriminated against. It would therefore seem that the Board might have to determine first that the business of the trader applying to be heard would be or had

been unjustly discriminated against. The same language is used throughout the remainder of section 22 and should receive some consideration. In other words, it seems to me that the person who claims his business has been discriminated against or will be discriminated against is the person who should be heard. That may be the intent of the section, but it does not say so.

The foregoing objections to certain provisions of the Bill and the importance of the legislation indicate that a thorough and complete investigation should be made with respect to the effect of such legislation upon all types of business affected thereby. The proposed legislation is regarded by the companies I represent as of equal, or even greater, importance than the Canada Shipping Act, which was carefully studied for over a year before it was finally enacted. It is suggested therefore that further consideration should be given to the phases of the Bill dealing with transportation by water before enactment of the Bill.

I may say we are in sympathy with the general purpose of the Bill and are perfectly willing to give every assistance we can.

Right Hon. Mr. MEIGHEN: You represent a long string of smaller companies operating bulk freighters on the lakes. The Canada Steamship company operate bulk freighters on the lakes in a very large way. You present very powerful arguments against the practicability of this legislation. How do you account for the fact that a large company in the same business favours it?

Mr. CAMPBELL: In the first place, if you go back a number of years you will find the Canada Steamship Company have always opposed such legislation. I think in 1920 Mr. Edmond Bristol appeared and advanced very strong arguments against the attempt then being made to fix rates. The company was probably trying to prevent the fixing of a maximum rate, because rates were much higher at that time. I think if this Bill is brought into force the operators of the larger fleets would have a distinct advantage over the operators of small fleets. First, the large operators have the organization to deal with these traffic and tariff problems before the Railway Board. In the next place, they can offer a service that the small operators cannot possibly offer. The only way in which the small operator is able to carry on is to give a rate—

Hon. Mr. DANDURAND: To undercut.

Mr. CAMPBELL: Not exactly by any means. I think an investigation will show that the small operator has not undercut. I think a very careful investigation into operations of shipping on the Great Lakes will show the larger companies do undercut.

Mr. ENDERBY: No, no.

Mr. CAMPBELL: Mr. Enderby might want to explain the Buffalo rates he has taken from time to time. Any gentleman here can easily see how the operator of forty or fifty vessels is at a distinct advantage. For instance, take your movement of grain from Vancouver to ports on the continent, one of the chief advantages is to get free storage of grain moving in that way. If he has forty or fifty vessels, he would take a cargo from Fort William to Montreal and hold it for three or four weeks with free storage. There are numerous instances where you can see the larger fleet owner has the advantage. I may say that all the companies I represent are not small operators. The Upper Lakes and St. Lawrence Company have recently purchased ten boats. I think now they have a fleet of twenty-two or twenty-three vessels. They do not think this proposed legislation is suitable for those most concerned.

Right Hon. Mr. MEIGHEN: I presume you have read the report of the investigation held in 1923 into this very problem by Mr. McLean, Mr. Tremblay and Mr. Thompson. They made a very lengthy investigation, and they recommend control. Have you studied their report to be in a position to point out where they went astray?

Mr. CAMPBELL: No, I have not studied that report, Senator Meighen. I think I would just repeat the arguments I have advanced here.

Right Hon. Mr. MEIGHEN: You did not appear before them. That is the reason?

Mr. CAMPBELL: I did not appear before them. Mr. Donovan is here representing some of the companies. He may be able to give you some information from the operators' point of view.

Hon. Mr. MACARTHUR: Mr. Campbell, you refer to the fact that there are too many old unsuitable ships operating on the lakes to-day. Have you any practical suggestion to obviate that difficulty? Would you make retroactive a provision that such ships as are obsolete should be broken up or otherwise eliminated?

Hon. Mr. DANDURAND: It is not necessary to make this Bill retroactive.

Mr. CAMPBELL: I think you can only accomplish something by a scrapping policy among the owners.

Hon. Mr. MACARTHUR: By agreement?

Mr. CAMPBELL: Yes.

The CHAIRMAN: Gentlemen, we will recall the deputation from the Maritime Provinces. Are Mr. Matheson and Mr. Turnbull ready?

Mr. D. R. TURNBULL: We are ready, Mr. Chairman. I am Vice-Chairman of the Maritime Transportation Commission, and I should like to say a few words before Mr. Matheson presents our brief.

The Maritime Transportation Commission is a branch of the Maritime Board of Trade. It represents the Boards of Trade throughout the Maritime Provinces. The Committee of the Maritime Transportation Commission is composed of one member appointed by the Boards of Trade of Prince Edward Island and another nominated by the Government of the Island. New Brunswick appoints two members from their Boards of Trade and two from its Government. Nova Scotia is represented by two members from their Boards of Trade and the provincial Government nominates the other two.

The expense of operating the Transportation Commission is solely financed by the three Maritime Governments, Prince Edward Island, New Brunswick and Nova Scotia. I feel we are fairly representative of the people of the Maritimes.

I shall not take up any of your time in connection with the geographical situation and the difficulties we have in operating down in the Maritime Provinces. That has been very fully covered by previous speakers. I need only say that it has been established that we have a right of entry into the markets of Central Canada. That was well established by the Duncan Commission and finally legalized by that very fine piece of legislation, the Maritime Freight Rates Act.

Hon. Mr. DANDURAND: You need not stress that. We are all agreed on it.

Mr. TURNBULL: The Maritime Freight Rates Act is the one great structure that has revived our hope of getting on in the Maritimes. If you have a very fine structure you will naturally carry insurance on it. Our insurance must take the form of fair treatment in regard to water rates from Atlantic ports up and down the St. Lawrence river and the Great Lakes. That is the only insurance we have to get the treatment which we are entitled to. For that reason we are unanimously behind the case so ably presented for the Maritime Governments by Mr. Burchell and backed up by Mr. Dickson. We feel that covers the ground adequately and well.

[Mr. D. R. Turnbull.]

We must of necessity have a right to get into the Central Provinces. If we are to live and progress in line with the rest of Canada we must have that market. It is our sincere wish and prayer that we may be permitted to continue our operations there within Confederation.

I call upon Mr. Rand H. Matheson.

RAND H. MATHESON (Transportation Manager, Transportation Commission, Maritime Board of Trade): Honourable sirs, the Transportation Commission of the Maritime Board of Trade, the Halifax Board of Trade, the Saint John Board of Trade and interested shippers in the Maritimes are opposed to several sections of so-called Bill "B" and particularly the part thereof which proposes to effect water regulations.

Since application was made to appear before your Committee assurances were received that it is the intention of the Government to proclaim the section pertinent to water regulations to the Great Lakes and St. Lawrence waterways only. However, as the Bill now reads, coastal services would be open to regulation at any time. In view of this fact, it was decided by the above parties to take advantage of the opportunity to appear before this Committee in order to protest against various sections as they now read and to outline briefly the reasons for so doing.

This brief purports to show what water transportation has meant to the Maritime Provinces, especially since 1927, and that conditions and circumstances that have apparently given rise for regulations on the inland waterways appear not to exist as regards water borne traffic between the Maritimes and Central Canada; in other words, to indicate that if water regulation is not necessary on Atlantic coastal services at present the effecting of such regulation would tend to be detrimental to the Maritime Provinces.

Factors leading to the revival of regular water services between the Maritimes and Great Lakes-St. Lawrence waterways.—Excepting in the case of industries owning their own vessels, the revival of regular water carriage between the Maritimes and the Great Lakes-St. Lawrence waterways took place in the year 1927.

That is aside and apart from the ships of the Dominion Coal Company, which have been operating ever since coal was mined in Cape Breton and other sections of Nova Scotia.

Prior to that time shippers were finding it difficult to compete in the principal markets of Canada because of the relatively higher rail rates resulting from increases from 1912 onwards and the relatively greater distances from the principal markets in comparison with competing industries. This condition was recognized by the Duncan Commission and as a result the Maritime Freight Rates Act was passed which, among other adjustments, reduced the so-called "select territory" proportion of the westbound rates by approximately 20 per cent. This reduction had the effect of ameliorating materially the problem facing Maritime industries.

At the time of the passing of the Maritime Freight Rates Act and the inauguration of regular water services between the Maritimes and Central Canada motor trucks were establishing themselves firmly in the central provinces as a competitive factor for traffic previously carried by the rail and water carriers. During the depression years the volume of traffic decreased materially with the result that competition between the rail, truck and water carriers became keener. Consequently, rates were reduced by all the carriers in order to retain or recoup traffic. It was a buyers' market in transportation, particularly in Central Canada. Maritime shippers to Central Canada did not share in this competitive situation because they were outside the sphere of its direct activity. Needless to say, however, the effects of the competition tended towards the

restriction of the markets of the Maritime industries. However, the revival of water transportation from the Maritimes had the effect of offsetting partially the decreasing freight charges enjoyed by competing industries in the Ontario and Quebec markets. As a result of the pressure of these changing conditions in Ontario and Quebec, it is not surprising that since 1927 the demand for steamship space resulted in an increase in the regular services between the Maritime ports and Central Canada. The ports of call in the Maritimes for the different lines, however, were more or less divided.

In other words, they were not so competitive with each other as they are, I understand, in the central provinces.

The volume of return cargo offering from the Maritimes, however, tended to limit the number of lines.

Effects of water transportation between Maritimes and the Great Lakes-St. Lawrence waterways.—Probably the most important benefit resulting from the inauguration of steamship services between the Maritimes and the Great Lakes and St. Lawrence waterways has been the extension of the markets of Maritime industries. Also, it has been of paramount importance to the farmers, who have been able to secure their feeds at lower delivered costs.

Shippers on numerous occasions, prior to the passing of the Maritime Freight Rates Act, appealed to the railways for relief in rates in order to retain their fast disappearing industries. Their applications resulted in very little relief. Even after the passing of the Act the changed traffic conditions which developed in the central provinces gave rise to further demands in order to assist in the maintenance of Maritime industries. Interested farmers also petitioned the railways on numerous occasions for reductions in their rates on feed products. In fact they went so far as to apply to the Board of Railway Commissioners. Their application, however, was dismissed.

Traffic conditions in the Maritimes as compared with conditions along the Great Lakes-St. Lawrence waterways.—I cannot speak with authority of the conditions along the Great Lakes and St. Lawrence waterways, but only from information obtained.

According to information received of traffic movements in Ontario and Quebec, there exists a highly competitive condition as between rail truck and water carriers. It appears that rebating, cutthroat rate competition, absorption of charges for extra service and rate disagreements are prevalent. It is appreciated that such a state of affairs, no doubt, tends to instability and financial ruin. Similar conditions do not appear to exist between water carriers serving between Maritime ports and Central Canada. Moreover, motor truck competition between the Maritimes and the central provinces is negligible. It follows, therefore, that what competition there is, exists chiefly between the rail and water carriers. The rail carriers have reduced their rates on some commodities to meet the water competition. The reductions effected have been chiefly on grain and grain products, sugar, canned goods, and lumber (from some ports). On the other hand, an analysis of the rail tariffs in effect in Ontario and Quebec indicates a large number of reductions to meet water and / or truck competition.

Volume of traffic by rail vs. water.—It is significant to note that the volume of traffic by water from the Maritime Provinces to Central Canada by the largest of the coastal lines is relatively small in comparison with the total freight loaded in the Maritimes by the rail carriers. It is estimated that the volume carried by all the other regular water services together would equal about half that carried by that line.

Comparison of rail vs. water transport.—It is a well recognized fact that the costs of water transport are relatively lower than rail. Water transportation because of its inherent nature is entirely different from rail transportation. It is practically impossible to relate rail rates to water rates unless of course it is through arbitrary action. If this action is taken through regulation, the obvious

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attempt is to better the position of the railways. In other words, water rates will be related to rail rates rather than rail rates to water rates as in the cases in which the railways, at their discretion, have reduced rates to meet competition. In other words, the inherent advantages of water transportation will be destroyed or seriously affected.

The greater part of the traffic by water between Central Canada and the Maritimes appears to be low valued basic commodities, which, because of their very nature, cannot bear high freight charges. It is only natural to expect, therefore, that the relatively lower cost of water transport for long hauls has attracted such commodities. On the other hand, it appears that practically all of the finished or higher valued products have continued to move between the Maritimes and the central provinces by rail. The motor truck is practically eliminated as a potential competitor for this traffic because the long haul would make it unprofitable in competition with the rail. This latter condition appears to be entirely different from that which prevails along the Great Lakes and St. Lawrence waterways where the truck, water and rail carriers are in competition for the high valued as well as the basic commodities.

Rail, however, has a number of advantages over water transport that tends to offset the lower water rates; namely, speed and probably more convenience. On traffic movements by water the shipper has to make arrangements for marine insurance by the way, trucking in a number of cases from the piers to the warehouses, where the stuff is stored for winter delivery to the various consignees, and if there is a large shipment by water, storage and financing has to be considered by either the shipper or consignee, depending on the purpose governing the movement.

Transshipment cargo at Maritime ports.—The majority of the steamship lines which call at Halifax, N.S., and Saint John, N.B., during the winter months make Montreal or Quebec their turn-around port during the season of open navigation. Consequently, the steamship lines which continue to call at Halifax or Saint John as a turn-around or port of call are handicapped in soliciting traffic for Ontario or Quebec. These lines in order to meet the direct competition and obtain some inland traffic for their vessels are compelled to quote through rates via Halifax and Saint John to equal the direct rates to Montreal and Quebec. The question arises, what effects would regulation of Canadian water carriers have on such rates? Would the lines be permitted to quote a proportion of a through rate from Halifax to Montreal, for example, lower than the regular rate on the same commodity from Halifax to Montreal? Regulation in this case may have the effect of driving ships with transshipment cargo for Montreal via Maritime ports to St. John's, Newfoundland, for example, or force the lines serving the Maritime ports to forego such traffic.

From a survey of conditions as they have existed on water movements of traffic between Maritime ports and as between Maritime ports and the Great Lakes-St. Lawrence waterways, it appears that regulations would not be of any benefit to the Maritime Provinces. In fact, it is the general consensus of opinion among shippers that regulation would tend to raise the lower water rates to relate more closely with the rail rates. The resultant effects would tend towards the elimination of water transportation and the limiting of the markets of Maritime industries. Moreover, the tendency would be also towards the raising of rail rates on a number of commodities that have been reduced to meet the limited competition by water. Under the Railway Act the railways are at liberty to meet competition at their discretion. It has been their policy, generally, to raise water competitive rates at the close of open navigation. The application of this policy to cases in which water competition is restricted or eliminated would mean only higher costs of transportation to Maritime industries.

Coastal services between points on the Atlantic seaboard.—There are a number of coastal services operating between ports in the Maritime Provinces. Most of the companies are relatively small and, incidentally, highly subsidized,

and the vessels used are of relatively low carrying capacity. A number of these coastal lines serve communities which have no rail connections. Regulation of these services involving publication and filing of tariffs, statistical reports as to cargo carried and earnings, etc., would tend to create a hardship. Most of these lines are able to operate only through subsidies.

It is respectfully requested, therefore, that section 8, part 2, be amended so that it will be expressly stated that the various provisions pertaining to water regulation will not apply to transport by water between coastal points on the Atlantic nor to the transport by water between Atlantic ports and ports on the Great Lakes-St. Lawrence waterways.

Now, with your permission, may I refer to various sections of the Bill that directly and indirectly appertain to coastal services?

Stand as to various sections of Bill B and criticisms thereon. *Re* interpretation clause (g), page 2.—This particular clause reads at present as follows:—

“Harbour toll” means and includes every rate, toll and charge established or proposed to be established by any Act of Parliament or by, or with the approval of, the Governor in Council in respect of ships or aircraft entering, using or leaving any harbour in Canada, or the passengers thereof, or goods loaded, unloaded, shipped, transhipped, moved in transit or stored in any harbour in Canada, or on or in any wharf, dock, pier, warehouse or other facility within the limits of any such harbour or situate on lands appurtenant thereto.

According to this clause, the proposed Transport Board would have control over all stevedoring charges for loading and unloading vessels whether for transshipment or storage, also charges on any wharf or dock, warehouse or other facility within the limits of any such harbour or situated on land appurtenant thereto. In other words, stevedoring contracts, storage and wharfage charges of private wharf and warehouse owners within the limits of any harbour would have to be published and filed with the board. In this connection the evidence of the Hon. Mr. Howe before this committee last week reveals that Part V of the Bill is intended to apply only to national harbours and properties owned by the government. It is requested, therefore, that the interpretation of “harbour toll” be so amended that it will apply only to properties of the Government and National Harbours Board and that it cannot be interpreted to apply to stevedoring contracts or private properties.

Part 2, page 5, clause 5, subsection 6.—Shipping men on the Atlantic coast have found that ships purchased for coastal trade are usually good for between twenty and thirty years. The limitation of the period of construction to not more than ten years before importation would tend to affect Maritime companies desirous of purchasing vessels or chartering British ships to carry their own products. Suitable new British ships for the carriage of certain kinds of products are not always available.

I think Mr. Burchell has mentioned the fact that certain types of British ships for carrying coal are not suitable for any other purposes, and that some of them are twenty to thirty years old. This limitation would work a hardship on anyone desiring to charter such a ship.

Part 2, page 5, section 7.—This section as it now reads would, no doubt, fail absolutely as a determinant of the reasonableness of water rates. The coastal and ocean rates are governed, generally, by demand and supply. If the rates implemented by steamship lines were based solely on the size and capacity of a ship there would exist as many rates as there are speeds and carrying capacities. In this regard, the same ocean rates are, generally, applied by all members of the Canadian Trans-Atlantic conference regardless of the variant speeds and capacities. The operators “per se” should be best suited to decide what a rate should be on a particular commodity at a particular time.

[Mr. Rand H. Matheson.]

Part 2, section 8, subsection 3, page 6.—The amendment of this particular section has been already requested in order to make this part non-applicable to Atlantic coastal services and to services between the Atlantic and Great Lakes—St. Lawrence waterways. However, it is to be pointed out that this section as it now reads refers specifically to ships of Canadian registry. British ships under the Shipping Act, 1934, are permitted to transport cargo and passengers between Canadian ports.

Part 5, section 20, page 10.—This section places the final decision of any findings of the board as to harbour tolls in the power of the Minister of Transport. It is suggested that the final finding should be made by the board. In any event, any such finding should be available to the public.

Part 6, pages 10-12, Agreed Charges.—As the Minister of Transport has stated, this part proposes to implement an entirely new departure in rates on this continent. Time has not permitted a thorough study of this section, but it is submitted that the Maritime Freight Rates Act should not be permitted to be disassociated from or destroyed by any such legislation in so far as it pertains to agreed rail rates.

Part 7, section 24, page 12.—This section concerns Maritime interests in so far as it may affect steamship brokers. No doubt, it has been framed to apply to brokers selling or offering for sale transport on the Great Lakes. In any event, it is not favoured by steamship brokers on the Atlantic seaboard and should be so amended as to be not applicable to them.

Part 7, section 25, subsection 2, page 13: It is submitted that this section may lead to political abuse.

The CHAIRMAN: You do not think that?

Mr. MATHESON: The subsection says:

Licences shall be issued only to qualified persons and shall prescribe the means of transport whether by rail or by air or by highway or by water in which the broker shall be entitled to carry on business.

Part 8, section 29, subsection (b), page 14: This section would probably have the effect of restricting a water service between points already enjoying rail services even though industries desiring the water service could not exist without it.

Summarizing, the Transportation Commission of the Maritime Board of Trade, the Halifax Board of Trade, the Saint John Board of Trade, and interested shippers in the Maritimes strongly protest against various sections of Bill B and recommend that:—

(a) Section 8, part 2, be amended so that it will expressly state that the various provisions in part 2 pertaining to transport by water will not apply between coastal points on the Atlantic, nor to transport by water between Atlantic ports and ports on the Great Lakes—St. Lawrence Waterways.

(b) Clause (g) page 2, regarding interpretation of "harbour toll" be amended so that it will apply only to properties of the National Harbours Board and the Government and also that the section be so changed that it cannot be interpreted to include stevedoring contracts.

(c) Part 5, section 20, page 10, be so amended that any findings of the Transport Board as to harbour tolls be made public.

(d) Part 7, section 24, page 12, be so amended as not to apply to brokers for Atlantic coastal and ocean services.

(e) Part 8, section 29, subsection b, page 14, be so amended as not to apply to coastal services between Maritime ports and as between Maritime ports and Great Lakes—St. Lawrence ports.

(f) Part 6, pages 10 and 12—This part should be so amended that it will in no way derogate, nullify, or destroy the statutory advantages of the Maritime Freight Rates Act. In other words, the Maritime Freight Rates Act must continue to have the same effect in relation to “any tariffs or tolls.”

The whole is respectfully submitted.

A COMPARISON OF OCEAN, RAIL AND WATER RATES ON VARIOUS COMMODITIES INDICATING THE RELATIVE REASONABLENESS OF WATER RATES BETWEEN MARITIME PORTS AND MONTREAL, P.Q., AS COMPARED WITH OCEAN RATES TO UNITED KINGDOM

Rates in cents per 100 lbs.			
Canned Goods—	Summer Rail Rate	Miles	
From Montreal, P.Q. to Halifax, N.S.	(1) 40	803	Carloads, carload minimum 30,000 lbs. summer competitive rate.
	Water Rate	Miles	
From Montreal, P.Q. to Halifax, N.S.	30	872	Any quantity quoted July 1, 1936.
	Ocean Rate	Miles	
From Halifax, N.S. to Liverpool, U.K. (In cases)	40	2485	Contract ocean conference rate as on July 1, 1936.
	Rail Rate	Miles	
Flour— From Montreal, P.Q. to Halifax, N.S.	(2) 18	803	Milled ex-lake grain carloads.
	Water Rate	Miles	
From Montreal, P.Q. to Halifax, N.S.	(x) 15	872	(x) Quoted by some steamship lines summer 1936.
	Ocean Rate	Miles	
From Halifax, N.S. to Liverpool, U.K.	16	2485	Contract ocean rate as on July 1, 1936.
	Summer Rail Rate	Miles	
Sugar— From Halifax, N.S.	(3) 22	803	Carloads, carload minimum 80,000 lbs. summer competitive 1936.
	Water Rate	Miles	
From Halifax, N.S. to Montreal, P.Q.	16	872	As quoted by lines in 1936.
	Ocean Rate	Miles	
From Kingston, Ja., to Halifax, N.S. (raw sugar) * Lower in value than refined sugar.	*14 to 18	1830	Rates depending on cargo offering, market conditions, prices, etc., and paid on out-turn weights.

Tariff references:

(1). As on Nov. 30, 1936, C. N. Rys. tariff CM-240, C.R.C. E-2262.

(On Dec. 1/36 rate increased to 52½ cents C.L.M. 24,000 lbs.)

(2) As on Jan. 1, 1937, C. N. Rys. tariff CG-165, C.R.C. E-2008.

(3) As on Nov. 30, 1936, C. N. Rys. tariff CM-271, C.R.C. E-2381.

(On Dec. 1/36 rate increased to 44 cents C.L.M. 24,000 lbs.)

Freight loaded at stations in the Maritimes for the years 1933, 1934 and 1935. These figures include also freight for points in the Maritimes, United States export and for points in other parts of Canada.

	Tons
1933	6,093,297
1934	8,184,335
1935	8,085,097

[Mr. Rand H. Matheson.]

Freight loaded in the Maritimes by the Inter-Provincial Steamship Lines for points along the Great Lakes-St. Lawrence waterways.

	Tons
	**
1933.....	38,400
1934.....	38,800
1935.....	37,300
*Eastbound traffic	
	**
1933.....	31,000
1934.....	40,000
1935.....	30,000

* Note: Proportion of Eastbound traffic carried by water in relation to rail would no doubt be relatively small.

** Subject to correction.

It is liberally estimated that the volume of traffic carried by other water carriers between the Maritimes and Ontario and Quebec would be about half that carried by the Inter-Provincial Steamship Lines.

MEMORANDUM OF STEAMSHIP SERVICES BETWEEN THE MARITIME PROVINCES AND ONTARIO AND QUEBEC PORTS

Steamer—	Line	Between	Sailings
SS. <i>Gaspesia</i>	Clarke Steamship Co. Ltd., Montreal, P.Q.	Montreal and Charlottetown, P.E.I., Summerside, P.E.I., and Pictou, N.S.	Bi-monthly.
SS. <i>Gaspe County</i>	Ellis Shipping Co. Ltd., Montreal, P.Q.	Montreal and Bathurst, N.B., Dalhousie, N.B., and Campbellton, N.B.	Bi-monthly.
MV. <i>Pictou County</i>	Ellis Shipping Co. Ltd., Montreal, P.Q.	Montreal and Charlottetown, P.E.I., Summerside, P.E.I., and Pictou, N.S., and Halifax, N.S.	Bi-monthly.
<i>Miron L</i>		Montreal and Tracadie, N.B., and Shippegan, N.B.	Fortnightly.
SS. <i>Belle Isle</i>	Newfoundland Canada Steamships Ltd., Halifax, N.S.	Montreal and Sydney and North Sydney.	Fortnightly.
SS. <i>Delia</i>	Inter-Provincial Steamship Lines Ltd., Halifax, N.S. (1936)	Montreal and Sydney.	Fortnightly.
SS. <i>Moyra</i> SS. <i>Zenda</i>	Inter-Provincial Steamship Lines Ltd., Halifax, N.S. (1936)	Lakehead and intermediate ports on the Great Lakes - St. Lawrence waterways on one hand and Sydney, N.S., Halifax, N.S., and Saint John, N.B., on the other.	Monthly for each steamer, thus providing a fortnightly service.
SS. <i>Ulva</i> SS. <i>Sonia</i>	Inter-Provincial Steamship Lines Ltd., Halifax, N.S. (1936)	Lakehead and intermediate ports on the Great Lakes - St. Lawrence waterways and smaller ports in the Maritimes.	These two steamers provide about a monthly service from smaller ports.

The occasional tramp ship also picks up and delivers cargo between the Great Lakes-St. Lawrence and Maritime ports.

Subject to correction.

NOTE also: SS. *New Northland* of the Clarke Steamship Lines and the SS. *Fleurus* of the Anticosti Shipping Company also made several trips between Charlottetown, P.E.I., and Montreal, P.Q., during the season of 1936.

The Resolution of the Canadian Industrial Traffic League in connection with the regulation of carriers passed at the Annual Meeting at Toronto, January 27 and 28, 1937, refers specifically to regulation of inland carriers of goods.

It is to be pointed out that the resolution first proposed did not refer specifically to inland carriage but it was so changed before being finally approved. The resolution reads as follows:—

Whereas the Canadian Industrial Traffic League have at previous Annual General Meetings indicated their approval of co-operation between various transportation facilities, particularly between railways and highways and in recent activities have endeavoured to secure co-operation between railway and steamship interests; and

Whereas the existing Railway Act embodies provisions respecting traffic, tariffs and tolls:—

Therefore, be it resolved that the Canadian Industrial Traffic League in Annual General Meeting assembled approve extension of federal control now embodied in the Railway Act respecting traffic, tariffs and tolls, to include transportation by air, interprovincial highway and by water to extent of inland carriage of goods in less than cargo lots.

The conditions and circumstances giving rise to the above resolution appear altogether different as regards traffic conditions between Atlantic coastal points and as between Atlantic coastal points and inland waterway points.

(NOTE.—The Canadian Industrial Traffic League is an organization comprised of traffic managers of industries and Boards of Trade throughout Canada).

The CHAIRMAN: Are there any questions?

Hon. Mr. COPP: Mr. Chairman, I should like to ask a question, not necessarily of this witness but of the delegation from the Maritime Provinces. During their presentation they have strongly emphasized the advantageous effect of the Maritime Freight Rates Act upon the Maritime Provinces. Is it their opinion that if this Bill is passed it would annul or in any way affect the operations of the Maritime Freight Rates Act in the Maritime Provinces?

Mr. BURCHELL: Yes, Part VI.

Hon. Mr. COPP: That being so, are you prepared to suggest an amendment and leave it with the Chairman?

Mr. BURCHELL: I have suggested an amendment. I dictated a very rough draft and left it with Mr. O'Connor. It can be easily put into shape.

The CHAIRMAN: Now, are we through with the Maritime Provinces' case?

Mr. BURCHELL: May I say that Mr. O'Leary, representing the Interprovincial Steamship Lines, is here. That company operates a fleet of five steamers, carrying freight from the Maritime Provinces to the Great Lakes. I do not know whether he wants to say anything, but I should like to point out in his behalf that the company, as owners of these ships, do not want any regulation of rates.

Mr. A. T. O'LEARY, Interprovincial Steamship Lines: Mr. Chairman, Mr. Burchell has dealt very fully with everything that needs to be dealt with. Speaking for my company, I may say that we started about ten years ago to build up a service between Maritime Provinces ports and the St. Lawrence and Great Lakes, and if this Bill goes through in its present condition it will very seriously affect our company; in fact, it would be absolutely ruinous to us. I just want to make that protest.

The CHAIRMAN: Is it possible that if this Bill were properly interpreted, or perhaps interpreted with some elasticity, it would not mean all the terrible things we have been told it means?

Mr. O'LEARY: It may be of assistance to us, sir, in some of its parts, but as it is now worded it would be ruinous to us.

[Mr. A. T. O'Leary.]

Hon. Mr. DANDURAND: But has Mr. Burchell put his finger on the parts that you think would be very damaging?

Mr. O'LEARY: Yes, he has covered the points thoroughly.

Hon. Mr. DANDURAND: So any amendments which he suggests will cover your case?

Mr. O'LEARY: Yes sir.

Right Hon. Mr. MEIGHEN: His amendments would leave you out of the Bill altogether.

Mr. O'LEARY: That is what we naturally are asking for.

The Committee adjourned until after the Senate rises.

AFTERNOON SITTING

The Standing Committee on Railways, Telegraphs and Harbours, to whom was referred Bill B, an Act to establish a Board of Transport Commissioners for Canada, with authority in respect of transport by airways, ships, aircraft and motor vehicles, resumed this day at 3.30 p.m.

The CHAIRMAN: Mr. G. P. Campbell, who spoke to us this morning, wishes to answer a question that was put to him by Senator Meighen.

Mr. G. P. CAMPBELL: Mr. Chairman and Gentlemen, with your permission I would answer a question that Senator Meighen asked me this morning, as to whether I had read the report on the Lake Grain Rates, by Mr. McLean and the other members of the Royal Commission on that subject. I have had an opportunity of referring to that report, and should like permission to read a portion just to show the extent to which that Commission considered all the problems submitted to it with reference to grain rates. On page 7 of the report it is stated:—

The Commission held its first sittings in Winnipeg on February 12, 1923, and thereafter held sittings in Fort William, Montreal, Toronto and Ottawa. The members of the Commission also visited Duluth, Milwaukee, Chicago, Cleveland and Buffalo, in order to inquire into conditions existing at these American lake ports in regard to the rates and insurance on lake-borne grain.

I may say, honourable gentlemen, that the Royal Commission was appointed to hold an investigation following complaints that there was a monopoly amongst Canadian vessel owners, and it was sought to determine whether or not the rates being charged at that time were excessive. The report is very extensive. In dealing with the advisability of controlling rates on lake-borne grain, the Commission makes this finding—and I submit it would apply equally to all bulk commodities—at page 52 of the report, paragraph 12:—

The difficulties in the way of controlling rates on lake-borne grain are such that your Commission is of the opinion that the only feasible method of rate control through a regulative tribunal is through maximum rates.

Subsequent to that report there was passed an Act known as the Inland Freight Rates Act, which fixed maximum rate charges.

Right Hon. Mr. MEIGHEN: That went out of effect.

The CHAIRMAN: That Commission recommended:—

That supervision of rates charged for the transportation of grain between Canadian ports be placed in the hands of the Railway Commission, or some other independent with the assistance of advisors and experts who are thoroughly conversant with this somewhat difficult problem.

Mr. CAMPBELL: Yes; but I think the chief thing to consider is that the investigation was held for the purpose of seeing whether or not rates which had been previously charged were excessive.

The CHAIRMAN: And the Commission recommended that the supervision of rates be placed in the hands of the Railway Commission.

Mr. CAMPBELL: That was not done. A maximum rate was fixed in the Inland Freight Rates Act, but that Act was found to be unworkable. The American vessels the following year refused to file their tariffs, as they were required to do, and there was a backing up of grain, so the Government had to try to induce these boats to come back.

The CHAIRMAN: I understand a Bill is being introduced in the American Congress now for the purpose of controlling rates. Of course it may never get through.

Right Hon. Mr. MEIGHEN: The Inland Freight Rates Act did not work, there is no doubt about that.

Mr. CAMPBELL: Mr. Chairman, Mr. Donovan is appearing in the same interests as I am.

The CHAIRMAN: Mr. Donovan has to catch a train for New York, while other gentlemen here have to go only so far as Montreal. So we will hear Mr. Donovan first.

Mr. GEORGE R. DONOVAN, Toronto, Vice-President, Union Transit Company, Limited: Mr. Chairman and Gentlemen, my company is interested in this Bill as it relates to bulk freight carriers on the upper lakes. We are not interested in passenger or package freight business.

As we understand it, the purpose of the Bill, in so far as it applies to lake shipping, is to stabilize freight rates and to correct certain objectionable practices in the industry through a system of licensing and rate control.

We submit that any arbitrary method of controlling Lake freight rates through a Government body is treating with the effect and not the cause of existing evils, and that the proposals in the Bill, in its present form, are untried and carry with them many dangers and, in application, will probably defeat their own end.

In lake shipping, the law of supply and demand is supreme. It operates instantaneously. If the supply of space exceeds the cargoes offering, rates drop and the decline, generally speaking, is in direct proportion to the surplus available. On the other hand, if the volume of cargo offering exceeds the available space, freight rates advance and stay up while that condition prevails. The natural and really only way to control freight rates is to regulate the supply of space to the demand and we fail to see how the application of this proposed legislation would accomplish this end. May we suggest that, until Canadian vessel owners, either through forced or voluntary action, lay up surplus tonnage, there can be no adequate rate control or prosperity in the industry. As a matter of fact, if freight rates are kept up artificially, more ships will be brought into commission because of the apparently remunerative rates and any benefits which should accrue to vessel owners from the higher rates, in all probability, will be swallowed up in delays in waiting to get cargo, discharging, etc.

[Mr. George R. Donovan.]

The competition of American vessels and other routes will always keep Canadian lake freight rates in check. This outside competition is constant and, at times, extremely hard to meet and should call forth a united front on the part of Canadians. However, Canadian vessel owners, particularly in recent years, have been engaged in competing among themselves with a bitterness that outside competition never offered and their prolonged persistence in this practice already has caused difficulties with their creditors in most cases and bids fair to ruin the industry.

In substantiation of the statement that Canadian vessel owners, to a very large extent, make their own competition, we submit herewith the Annual statement of the Lake Shippers' Clearance Association showing the boat shipments of grain from the lakehead for the navigating seasons 1924 to 1936 inclusive. In 1936 the total quantity of grain moved in American bottoms was 14,570,300 bushels, or less than 7 per cent of the season's movement. In previous years the quantity carried in American bottoms rarely was below 25 per cent and sometimes exceeded 50 per cent. It was only when our grain rates got above a certain level that American vessels became interested. For the greater part of the season, they would not look at our grain business at the rates offering.

Right Hon. Mr. MEIGHEN: From Fort William to Buffalo?

Mr. DONOVAN: Yes. Most of the grain this year was transported in Canadian ships at rates varying from $1\frac{5}{8}$ to $2\frac{1}{4}$ cents. The rate got up to $2\frac{1}{4}$ cents in the fall, but the bulk of the grain was carried at rates ranging from $1\frac{5}{8}$ to $1\frac{3}{4}$ during the summer months. That carriage was in Canadian ships.

Perhaps the most interesting and enlightening example of this competition among Canadian vessel owners was in the carriage of wheat from Fort William to Buffalo last year. According to the figures of Lake Shippers' Clearance Association, this business, from August 1st to the close of navigation, ran in volume a little over 34,000,000 bushels, a very substantial quantity you will note, and exceeding the total for the same period handled by our Canadian transfer points at Sarnia, Port Colborne, Toronto, Kingston, and Prescott. The most of this grain was carried at rates of $1\frac{5}{8}$ cents to $1\frac{3}{4}$ cents per bushel and carried in Canadian ships. So far as we know, not a bushel of this cheap grain was hauled in American ships. The owners of Canadian Upper Lakes ships themselves made these rates and co-operation among three or four of these interests might easily have stopped this rate slashing. This policy of cutting freight rates to this American port is a very serious consequence to Canadian interests because:—

(a) It helps to establish a low rate of freight on grain for export over an all-Canadian route.

(b) It gives a large volume of business in Canadian merchandise to the elevators at Buffalo, which is sadly needed by our Canadian elevators, especially the Government elevators at Port Colborne and Prescott.

(c) It puts the Buffalo miller in a position where he can buy Canadian wheat cheaper in Buffalo than his competitors can at relative points in Canada, thus giving the American miller the advantage in flour export trade.

(d) Any wheat hauled by the railroads for winter export shipment would probably go over American lines instead of Canadian lines.

Hon. Mr. GRIESBACH: How is that statement that the wheat goes over the American lines connected with what you said previously?

Mr. DONOVAN: There is a certain amount of grain shipped from transfer points during the winter. If that was shipped to the Bay ports it would probably go from there to Halifax. If it is loaded in the elevators at Buffalo it will go over American lines for export through American ports. There is a large consumption of grain in Buffalo for domestic purposes, but there is a certain amount of export business.

The Board of Railway Commissioners would have no jurisdiction over lake freight rates on international business. Section 5 of the Bill proposes the licensing by the Minister of ships which transport passengers or goods from one port or place in Canada to another port or place in Canada. If the Bill passes there is no reason to believe that Canadian vessel owners will cease competing amongst themselves for this Buffalo business. We would therefore have the anomalous situation of Canadian vessel owners setting intensely competitive rates for Buffalo business and business through other American ports and, at the same time, having to submit to Government regulation through the Board of Railway Commissioners on business passing over all-Canadian routes. It must be perfectly clear, even to those not familiar with the transportation conditions in this country, that under these conditions the volume of traffic through these American ports would increase at the expense of the All-Canadian routes. It may be safely predicted that this is precisely what will happen if the Bill is passed and the repercussions of such legislations may be equally dangerous to Canadian interests in other directions. It must always be considered that the grain business is probably the most competitive business in the world and that any restriction or regulation over any of the factors which go to make up the delivered price may have unforeseen and very serious consequences.

The following, I think, Mr. Chairman, is an answer to a very practical question asked this morning. We believe that there is a way in which the Government can be of very valuable assistance to lake vessel owners in getting out of the rut into which the industry has fallen. Since the advent of the Panama canal and the new Welland canal the demand for lake space has diminished with the result that there is a surplus of tonnage on our Canadian Registry, which either should be withheld from competition or scrapped. Much of this surplus consists of obsolete American vessels imported into this country at times when our Canadian fleet was not sufficient to meet the demands of Canadian shippers.

At the present time the lifting capacity of our whole fleet is about 24,000,000 bushels of wheat. Nearly 6,000,000 bushels of this space, or approximately 25 per cent, consists of vessels thirty-three years old, or over, and with one single exception these vessels are American importations. It would be presumption on our part to say what it would cost to scrap this 6,000,000 bushels capacity, but \$1,000,000 should go a long way on such a project. If our Canadian Government would follow the lead of the British Government and initiate a scrapping program, even if the shipping industry itself had to be taxed to carry it, we believe the movement would be welcomed by Canadian vessel owners and would be of tremendous benefit not only to the shipping industry but also to Canadian shipyards. It might be necessary or advisable to embark upon a scrapping program gradually, but there would seem no reason for delay in taking definite steps along these lines and such measures should be accompanied by co-operation amongst owners themselves, under Government influence, to withhold surplus tonnage from the market and stop the tremendous economic waste which is prevalent in the industry to-day through duplication of services and rate cutting.

Our Canadian bulk fleet consists of about 150 vessels divided into approximately twenty-five ownership groups and twelve operating groups.

The number of operating groups, as you will note, is not large. Two of these operating groups represent only one vessel apiece so that it might be said that there are only ten operating interests. Having so few interests to deal with should materially facilitate the working out of any scrapping or co-operative program.

Right Hon. Mr. MEIGHEN: Mr. Donovan, it is true that British policy has been exactly what you say and has been pretty effective. But is not their position somewhat different? The British Mercantile Marine is not only carrying British goods, but goods of other nations to a gigantic extent. In a

[Mr. George R. Donovan.]

word, it is a world carrier; whereas our mercantile marine is carrying our own goods only, and if we adopt a scrapping program are we not going to add to the cost of carriage of our own products to world markets?

Mr. DONOVAN: I do not think so. I think competitive routes will set the rate finally. There are several routes through which you can ship grain from Canada. I believe they will ultimately set the rate, unless further competition among Canadian owners themselves set a lower rate. The bane of the shipping industry to-day is surplus tonnage of old boats. Old boats, like old soldiers, never die. If we can regulate that surplus tonnage through a scrapping process and a little co-operation among the owners, we can accomplish something; but I am certain that if we try arbitrarily to regulate rates we shall defeat our own ends. It has been tried; it will not work.

Hon. Mr. LAIRD: When those old second-hand boats come in here does the question of customs duty enter into their operation?

Mr. DONOVAN: They have paid the duty and they are on our registry with the same privileges as Canadian-owned boats.

Right Hon. Mr. MEIGHEN: But keeping out those second-hand boats would, it seems to me, benefit principally—and I should like to see it—the Canadian vessel builder. Would it not?

Mr. DONOVAN: It will not immediately. There is enough tonnage on the market to take care of the demands; but it will give him a little hope for the future. His position now seems hopeless.

Hon. Mr. DANDURAND: Mr. Donovan, you speak of competition which is bound to offer on freight running from Fort William to Buffalo. That is by boats on Canadian registry?

Mr. DONOVAN: Yes, sir.

Hon. Mr. DANDURAND: Have you looked at subsection 3 of section 8? It provides:—

The Governor in Council may on the recommendation of the board by proclamation extend the application of this part to transport by means of ships registered in Canada over any sea or inland water on or in respect of which this part is in force between ports or places in Canada and ports or places outside of Canada.

Would that not meet the situation?

Mr. DONOVAN: Well, if the regulation was made it possibly would.

Right Hon. Mr. MEIGHEN: But, remember, that applies only to Canadian-registered tonnage. American tonnage can go there too and keep that rate down.

Hon. Mr. DANDURAND: But Mr. Donovan has argued that the competition would come through Canadian-registered boats running from Fort William to Buffalo. Then they could be reached through this clause.

Right Hon. Mr. MEIGHEN: You could not conceive of imposing such hampering regulations on Canadian boats over a certain route, while their competitors are unhampered over the same route. It means turning all the business over to those competitors.

Hon. Mr. DANDURAND: I do not know what the American tonnage would mean. So far we are meeting the situation of Canadian boats running from Fort William to Buffalo.

Mr. DONOVAN: There is this further consideration, Mr. Chairman, that most of our vessels in that trade are registered in Great Britain.

Right Hon. Mr. MEIGHEN: They would enjoy the freedom along with the American-registered vessels.

Mr. DONOVAN: I suppose so.

Hon. Mr. DANDURAND: But our legislation would cover them as well as our own Canadian ships.

Right Hon. Mr. MEIGHEN: No, your Bill does not even say that, the reason no doubt being that it is not feasible.

Hon. Mr. DANDURAND: The legal interpretation will have to be discussed.

The CHAIRMAN: Thank you, Mr. Donovan.

Now, Mr. Reford.

Mr. L. E. REFORD: I am representing the Montreal Board of Trade, Mr. Chairman. The Montreal Corn Exchange is that section of the Montreal Board of Trade most intimately interested. The Board of Trade is generally interested. They discussed the matter and passed a resolution presenting their point of view, which they directed me to present.

The CHAIRMAN: Very well.

Mr. REFORD: This is the resolution passed by the Montreal Board of Trade:—

That it is the opinion of the Council of the Montreal Board of Trade that such form of legislation as contemplated by Senate Bill "B" would inaugurate a system of economic coercion of private interests, and is an attempt to over-ride the principle of supply and demand, in a service which has always been looked upon as essentially subject to free contract. It is feared that, having instituted such a system of state control, or legalized monopoly, or legalized abrogation of competition in one branch of business, the government could not logically refuse its extension to other trades or industries.

That the council views with disfavour legislation of this nature whereunder the government proposes to assume arbitrary powers superseding individual rights, and which would place in restricted hands a virtual dictatorship in respect of price fixation between competitive entities whose respective financial structures and resultant operating costs are widely divergent.

That the council deprecates government interference in any situation where natural competition exists without detriment to public interest, and in particular the council strongly believes that control of freight traffic carried by water between points in Canada, limiting, as it would, competition between the water carriers, would not be to the interests of the merchants of Canada, the western grain grower or the consumer.

Mr. Stanley Cook, Secretary of the Montreal Corn Exchange, is ready to present to you a fuller brief.

The CHAIRMAN: We are ready to hear him.

Mr. STANLEY COOK (Secretary, Montreal Corn Exchange): Mr. Chairman, I beg to submit a memorandum from the Montreal Corn Exchange Association on Bill B which is now engaging your attention.

After careful study by this Association of Senate Bill "B" to establish a Board of Transport Commissioners for Canada, we are strongly of the opinion that, although there may be good reasons for some regulation of traffic as outlined in the Bill, no attempt should be made to regulate Lake shipping, insofar at least as it refers to the carriage of grain.

One of the principal contributing factors in the price of grain is transportation costs and, as the grain trade of Canada is vitally concerned in establishing costs which will enable them to meet international competition, it is absolutely necessary that this be flexible to a degree so as to meet rapidly changing world conditions.

[Mr. Stanley Cook.]

Lake rates have always depended on the supply of grain available whether or not there is any demand at the Seaboard, time required to complete loading and unloading, climatic conditions, also whether return cargoes are available. These conditions alter from hour to hour and carriers should be in a position to meet this situation as it arises, without reference to any Governmental Board as to their right to do so.

The establishment of fixed rates would also undoubtedly in many instances create a difficult situation for the Lake carriers, through their inability to fill out complete cargoes from the Lakehead, as there would be no inducement for any shipper to send grain forward to the Seaboard unsold.

The grain trade and allied interests have been successful during the past year or two in securing the movement of considerable imported foreign grain via St. Lawrence ports destined to Upper Lake ports, in competition with the American Atlantic Seaboard and their inland water and rail carriers. Any Canadian rate structure which cannot be immediately adjusted to meet the competition of foreign owned tonnage would divert the traffic to such foreign vessels.

Our canal system was exempted from tolls with the object of assisting in providing a cheap method of transportation for Western grain, but we are convinced that any successful regulation of Lake rates will inevitably result in the raising of the cost of transportation of grain to the Eastern Canadian Seaboard, also that standardization of costs minimizes any advantage the Canadian trade may have in offering abroad, all of which would be to the definite detriment of the Western grain growers. Furthermore, it was our understanding when Canada was granted the six cent preference on her wheat into the United Kingdom market that no attempt would be made to take advantage of this preference by regulating or controlling costs.

It must be borne in mind that under normal conditions a considerable proportion of our Western grain is marketed in foreign countries outside of the United Kingdom and therefore not subject to the preference, also that this grain can be exported via the American Seaboard as readily as via the St. Lawrence. The Act cannot, of course, apply to vessels of other than Canadian register and, as the foreign vessels are free to make whatever rates they find necessary to secure the business via Buffalo and other American Lake Ports with their wide range of ocean ports and services, also to change them from day to day, the restrictions proposed under the Act will undoubtedly result in the loss of considerable traffic to St. Lawrence ports.

This Act is comparable to attempts made in Parliament, commencing in 1914, to place the water carriers under the Railway Commission, none of which were successful.

Permit us to point out also that all the Lake lines operating in the grain trade between the Lake Head and Montreal are not in favour of the proposed legislation. In fact, a large percentage of the effected tonnage is very much opposed to it, and are making representations direct to your Committee.

The Canadian grain trade is slowly recovering its lost prestige in the United Kingdom and the Continent, and it is the consensus of opinion here that it would be distinctly unwise to jeopardize this progress by any revival of attempts, through Government regulation, to control or fix any integral part of the price structure.

This Association desires, therefore, to go on record as being strongly opposed to the enactment of the proposed legislation insofar as it relates to the carriage of grain.

Right Hon. Mr. MEIGHEN: Mr. Cook, you referred to an attempt in 1914 to place water carriers under the Railway Commission. What was that attempt?

Mr. COOK: I have a record of our representations against it.

Right Hon. Mr. MEIGHEN: There was no attempt. There has been talk about it in the House, but nothing was done in 1914.

A DELEGATE: There was in 1923.

Right Hon. Mr. MEIGHEN: There was in 1923.

Mr. COOK: And two or three times there have been discussions on it.

Hon. Mr. DANDURAND: How was it initiated in the Commons?

Right Hon. Mr. MEIGHEN: Resolutions by Joe Armstrong of Lambton.

Mr. COOK: I have not many of the details here, but I do find an extract from one of our reports of 1914:—

That the Council takes strong exception to the provision of the following portion of section 358:—

and the provisions of this Act in respect of tolls, tariffs and joint tariffs shall, so far as deemed applicable by the Board, extend and apply to all freight traffic carried by any carrier by water from any port or place in Canada to any other port or place in Canada.

Right Hon. Mr. MEIGHEN: What Bill is that?

Mr. COOK: I am not quite sure, sir.

Right Hon. Mr. MEIGHEN: It was Joe Armstrong's private bill.

The CHAIRMAN: Joe Armstrong was the member for East Lambton, and even when I was Minister was strong in the belief that you could have control of water rates as well as of land rates. He introduced a bill but it never became law.

Mr. COOK: We have here, sir, several members of the Corn Exchange who are familiar with the trading end and the traffic end.

The CHAIRMAN: Where is Mr. Bolin?

Mr. F. E. BOLIN (Montreal Corn Exchange Association): I, Mr. Chairman, only represent the trading section of the Montreal Corn Exchange; that is to say, firms engaged in the actual buying and selling of grain, and I do not pretend to be able to discuss the transportation features of this Bill.

Hon. Mr. LAIRD: The buying and selling of all kinds of grain, or only corn?

Mr. BOLIN: All kinds of grain, sir.

As we say in the second paragraph of our memorandum, one of the principal contributing factors in the price of grain is the transportation cost. I think most of the gentlemen here are more or less familiar with what constitutes the price of grain. The first price is at Fort William or Winnipeg; then from there on your transportation costs, particularly on export grain enters into it—your handling charge at Fort William, and your lake freight.

As was pointed out by several speakers this morning, the contributing factors change sometimes from hour to hour, some times quicker than that—It may be world conditions, it may be local conditions, it may be competition, and it may be anything. You cannot say definitely beforehand just what the factors are going to be.

Our principal objection to this Bill as it refers to the carriage of grain by water is that if the business was put under a governmental body we could not get our prices together quickly enough to take advantage of some factors that might enter into the making up of the price, and somebody else would get the business. That would be particularly so in connection with grain being sold to the Continent. Right at the moment, you know, Canadian grain enjoys a preference of 6 cents a bushel in the United Kingdom market, but in order to secure that preference the grain must move by Canadian bottoms and through Canadian ports. But we claim the total movement of that grain to the United

[Mr. F. E. Bolin.]

Kingdom market is not sufficient to keep the St. Lawrence waterway—that is the elevators, the canals, and so forth—in business. Now, we claim that if your rates from Fort William to Montreal or other lower St. Lawrence ports are regulated and fixed you immediately hold an umbrella over the head of your competitor who sells to the Continent via Buffalo.

Hon. Mr. DANDURAND: With the 6 cent handicap?

Mr. BOLIN: No. I am speaking now of the continental markets. There is no preference in the continental markets or in the Irish Free State, and the cheapest route gets the business.

Hon. Mr. DANDURAND: Would you lose the 6 cent advantage on the British market?

Mr. BOLIN: I will have to differentiate between the two. I started with grain to the United Kingdom market. That had to go via Canadian ports. It might be possible to regulate that movement, but there are one or two factors there that we object to. Some of the upper lakers carry as much as 300,000 bushels of wheat. Suppose that an exporter has a bid for 200,000 bushels; he makes a rate with his steamship company and prepares to ship; the boat at Fort William has still 100,000 bushels of space to fill up. Under the open market it quite often happens that an exporter will say, "If you give me a rate a little under the present rate I will ship this unsold down to the seaboard."

Now, an exporter today with a fixed rate would not dare do that, for this reason. The moment he puts it out of Fort William he puts it out of position. He has got only one outlet, that is the United Kingdom market. Now, the United Kingdom buyer knows just as soon as we do what stocks are carried at the Canadian seaports. This grain is put down at, say, Montreal, Quebec, Sorel or Three Rivers, unsold; then if the owner of that wants to sell it to the United Kingdom he will have to compete with the Buffalo gateway and possibly lose something. If he wants to ship it to the United Kingdom he is more or less at the mercy of the United Kingdom buyer, because he has got only one outlet for it; and the United Kingdom buyer would know that he has got it there unsold, and that he is faced with the alternative of accepting a bid or of paying storage, insurance and other carrying charges. So invariably the owner would be faced with a loss. Now with regard to competition for the continental markets, we claim all the continental business would be diverted from the St. Lawrence route.

The CHAIRMAN: What do you mean by continental business?

Mr. BOLIN: Grain for the continent of Europe.

The CHAIRMAN: A good deal of grain comes from the western states and goes down the St. Lawrence, but you are considering only our own?

Mr. BOLIN: Yes.

Hon. Mr. DANDURAND: But when you say "continental" you mean European?

Mr. BOLIN: Yes; I am referring to continental Europe and the Irish Free State. There is no preference into either one of these. If you have a fixed rate, we claim that all your competitor has to do is to cut under it momentarily, to make any slight concession, say a quarter of a cent, and he will get the business. The moment you put it into the St. Lawrence route you are automatically shut out from the continental market.

Hon. Mr. DANDURAND: You are shut out from the continental market you say, because once your grain is going down the St. Lawrence it has the six cents preference on the Liverpool market?

Mr. BOLIN: Yes.

Hon. Mr. DANDURAND: So that you discard the continent, where you would lose that six cents preference?

Mr. BOLIN: Yes. You would have to compete then with any other shipping route if you wanted to go into the continental market. So the lake carrier would be faced with trouble in getting his boats loaded, if he was not able to make a full load at the head of the lake, because the shipper would not send anything down to Montreal or the Great Lakes gateway unsold.

Hon. Mr. GILLIS: Are you dealing with grain unsold?

Mr. BOLIN: Yes, because the great proportion of grain bought is not sold before it leaves Fort William.

Hon. Mr. HORNER: You are assuming that when it leaves Fort William unsold there is no further bargaining possibility for a cut rate to Buffalo and that the regulated rate must be paid?

Mr. BOLIN: You cannot ship it for Buffalo then, once you head it for a Canadian port.

Hon. Mr. BALLANTYNE: The point you make, as I understand it, is this. If this Bill passes, when you are trading with the continent under fixed rates you will be handicapped because competitors will take the business away from you?

Mr. BOLIN: Yes, because they have a flexible rate.

Hon. Mr. ROBINSON: I do not think that is the point. I think the point is that when you have got it down to Sorel or Quebec, or any other of these places, you have only one market for it.

Mr. BOLIN: That is the same thing.

Hon. Mr. BALLANTYNE: Let us not confuse continental business with United Kingdom business. You are on United Kingdom business now?

Mr. BOLIN: Yes.

Hon. Mr. BALLANTYNE: I am speaking now with regard to continental trade. You say if this legislation passes, since our rates will be fixed your competitor will be able to quote a lower rate and take the business away from you?

Mr. BOLIN: Yes.

Hon. Mr. GRIESBACH: A ship capable of carrying 300,000 bushels has 200,000 bushels on board, and you put 100,000 bushels unsold on board as well.

Mr. BOLIN: That was an illustration I gave.

Hon. Mr. GRIESBACH: I know. And that comes down the St. Lawrence unsold.

Mr. BOLIN: I gave that illustration to show the trouble that the lake carrier gets into.

Hon. Mr. GRIESBACH: That is where your trouble begins?

Mr. BOLIN: Part of it. You may be able to book 200,000 bushels to go via Montreal, destined definitely for the United Kingdom market. Now you want 100,000 bushels to fill up the boat. If those 100,000 bushels are not sold in advance to the United Kingdom market and the shipper has to put that quantity through to Montreal unsold, then he has got only one outlet. He has got the United Kingdom market, of course, but he cannot get into the continental market.

Hon. Mr. BALLANTYNE: We are confusing things. You had already passed the United Kingdom trade and had got to continental trade. Let us stick to that.

Mr. BOLIN: But the two are intermingled.

Hon. Mr. BALLANTYNE: If we have fixed rates, a competitor who was not under that regulation could quote a lower rate and take the trade away from you?

[Mr. F. E. Bolin.]

Mr. BOLIN: Yes.

Hon. Mr. ROBINSON: As I understand your illustration, the boat would have 200,000 bushels with a definite destination and 100,000 bushels unsold?

Mr. BOLIN: That was only an illustration. If conditions were ideal, where you could sell your grain for shipment from Fort William to a fixed destination, such as the United Kingdom market, you would be all right. But if the vessel owner cannot get sufficient tonnage at Fort William for the United Kingdom market, he has the alternative of shipping his boat light or of trying to attract some more tonnage. Now, the owner of grain, when he is asked to ship something unsold on a boat, wants to know where it is going. If he ships it unsold to Montreal under this fixed rate, he has got only one outlet, that is the United Kingdom, because his competitor can underquote him by the Buffalo route.

Hon. Mr. GRIESBACH: And you say the United Kingdom buyer comes in with that knowledge and puts pressure on him.

Mr. BOLIN: Oh, certainly he has that knowledge.

Hon. Mr. GRIESBACH: Is there a large volume of business like that?

Mr. BOLIN: Well, of course, there is no fixed rate yet.

Hon. Mr. GRIESBACH: I mean unsold business.

Mr. BOLIN: Oh, yes, very much; I would say 80 or 90 per cent, at least. The grain shipper very seldom knows what he is going to do with his grain when he heads it out of Fort William, whether he is going to sell it to the continent or to the United Kingdom or for domestic purposes.

Hon. Mr. ROBINSON: I understand that when you know you have only one outlet you take that chance, if you can get a special rate?

Mr. BOLIN: No, sir, it is just the opposite to that, if I understood you rightly. If you have several markets you will take a chance in shipping; but if you have only one market, you will not.

Hon. Mr. ROBINSON: Then why would a man move it down there?

Mr. BOLIN: He would not move it down unsold, no.

Hon. Mr. ROBINSON: I thought you said he would move it down unsold.

Mr. BOLIN: He will move it down unsold to-day, when he has several outlets. Under these unrestricted freight rates, say for the sake of argument he gets a concession in the rate, he will move it down and take a chance of selling it to the United Kingdom or the continent. But under a fixed rate he would not dare ship it down, because of fear that he may be shut out of the continental market.

Hon. Mr. DANDURAND: We hear of elevators in Montreal, Three Rivers and Sorel being filled for weeks and boats having to lie waiting for that grain. Is not that grain generally unsold? Does it not reach those elevators unsold?

Mr. BOLIN: Yes, it reaches them unsold.

Hon. Mr. DANDURAND: And shippers are somewhat handicapped inasmuch as from there they have but one purchaser?

Mr. BOLIN: No, not now.

Hon. Mr. BALLANTYNE: Mr. Bolin's point is very clear. He says that now with free competition, a large volume of business is done in this unsold grain. But if we had fixed rates we would not be able to do that, because competitors would quote a lower rate and take the business away. Is that not your point?

Mr. BOLIN: Yes.

Hon. Mr. DANDURAND: That difficulty would disappear if the United States Congress passed legislation which is now before it along the same lines as this legislation.

Mr. BOLIN: That is a big "if."

The CHAIRMAN: You trade in grain, do you not?

Mr. BOLIN: Yes.

The CHAIRMAN: If you got cheaper rates would you not get more for your grain?

Mr. BOLIN: In what way, Mr. Chairman?

The CHAIRMAN: Perhaps I misunderstood you. I understood you to say that if a man had grain at Montreal or Three Rivers, and there was a fixed rate, competing vesesls would come in and quote him a cheaper rate. Now, would that not help the man who was selling the grain, if he could get that cheaper rate?

Hon. Mr. BALLANTYNE: Mr. Bolin wants to be free, as he is now, to get the cheapest possible rate. He will be restrained from doing that if there is a fixed rate.

Mr. BOLIN: What I am trying to make clear is that the grain business is essentially a trading business, and you have to be free to adjust your prices and so forth as conditions arise. Now, I say that if you have a fixed rate—and I am assuming that the fixed rate can be applied only to Canadian ports—you will have only one definite outlet, because you have a preference to-day into the United Kingdom market. But I say if you continue along that line you cannot put enough United Kingdom traffic through the St. Lawrence to take care of the machinery that there is for handling grain in Montreal, Quebec and Sorel

Right Hon. Mr. MEIGHEN: There is not enough traffic?

Mr. BOLIN: There is not enough going to the United Kingdom.

Right Hon. Mr. MEIGHEN: If you have a free lake transport situation to other ports, the tendency will be to divert traffic that way and also to put a handicap upon trading on the other route.

Mr. BOLIN: Yes, absolutely. As I say, to-day we figure on being able to get a big portion of the continental business from Montreal, Sorel, Three Rivers, Quebec, as well as the United Kingdom market; we are sure of that market. We need some continental business, for we have not enough United Kingdom business. We feel that we shall be shut out of the continental business.

Hon. Mr. DANDURAND: You want it at the cheapest rate possible in order to reach the continent.

Mr. BOLIN: We want to be able to meet that competition.

Hon. Mr. DANDURAND: Through a cheap rate.

Mr. BOLIN: It does not matter whether cheap or dear, we have to be able to meet any other gateway.

Hon. Mr. PARENT: If everybody is on the same footing, what competitors are you afraid of?

Mr. BOLIN: Don't forget that American and continental firms are handling Canadian grain every day. They probably handle more than Canadian firms do.

Right Hon. Mr. MEIGHEN: They would have this unmanacled route.

Mr. BOLIN: Certainly.

Hon. Mr. PARENT: What you are afraid of is the American competition?

Mr. BOLIN: Or even some of the continental houses trading in Canadian grain. There is no restriction on who may handle Canadian grain.

The CHAIRMAN: Anything else?

Mr. ENDERBY: I wonder if Mr. Bolin would deal with the question of where a shipper had 300,000 bushels of grain and only gave the ship 200,000 bushels in order to break the rate on the other 100,000 bushels, as we have seen it done.

[Mr. F. E. Bolin.]

Mr. BOLIN: As a buyer of grain I was referring to the ship-owner entirely there, I was not referring to our own case. We have known of cases of movement of 200,000 bushels definitely booked to go to a certain port from Montreal, and the ship-owner might want to ship that on a certain boat that would carry 300,000 bushels.

Mr. ENDERBY: But I am the unfortunate operator of that boat that carries 300,000 bushels, and the shipper gives me only 200,000 bushels, and has the other 100,000 bushels free.

Mr. BOLIN: Not necessarily.

Mr. ENDERBY: We have met those identical conditions. He says, "What rate will you make me on the remaining 100,000 bushels?"

Mr. BOLIN: The shipper does not say that.

Mr. ENDERBY: He says it to me.

Mr. BOLIN: No, he does not. I said the shipper did not have the other 100,000 bushels sold.

Mr. ENDERBY: But I do. Would you mind converting that question into one that would meet the circumstances as I have encountered them and get it on a practical basis.

Mr. BOLIN: What I have said is practical.

Mr. ENDERBY: I agree with that, but the withholding of cargo can be used, and is used, to break rates.

Mr. BOLIN: I do not agree with you when you say withholding.

Hon. Mr. COPP: Suppose Mr. A having 300,000 bushels of wheat sells 200,000 bushels and gets a rate on it. The other 100,000 bushels he has not sold. Would it be unfair to you or any other dealer for him to say to the ship-owner, "I have 100,000 bushels. Will you take it?"

Mr. BOLIN: That is what I mean. Very often, as shippers or dealers in grain, we might sell 200,000 bushels in February to be shipped at the opening of navigation. When we come to ship we find the vessel-owner asks for another 100,000 bushels. We say, "We have not got it sold. We don't like to get it down there unless we have some inducement to do so."

Mr. ENDERBY: But suppose that on the last 100,000 bushels it is not Mr. A, but Mr. B, that instead of getting 6 cents to Montreal, as on the first 200,000 bushels, the ship-owner is squeezed into the position where he has to take a rate of 5 cents from Mr. B. on the last 100,000 bushels. How fair is that to Mr. A, the shipper of the first 200,000?

Hon. Mr. PARENT: Part of the cargo is sold and part is not.

Mr. BOLIN: You are referring to two competing shippers.

Mr. ENDERBY: One would get a rate of 5 cents and the other a rate of 6 cents.

Hon. Mr. BALLANTYNE: Mr. Bolin's point is this, if he did not get the lower rate he would lose the sale of the 100,000 bushels, or someone else would get the lower rate and take the business away from him.

Mr. BOLIN: You know, you don't ship on sale unless you have some inducement to do so.

Mr. ENDERBY: Most of what moves down the lakes is sold. In the case I am citing the man with the 100,000 bushels of unsold grain gets a lower rate of 5 cents.

Mr. BOLIN: No.

Mr. ENDERBY: I am trying to bring you back to concrete cases that I encounter during the season when I see freight rates broken by shippers.

Mr. BOLIN: How can a shipper break a freight rate?

Mr. ENDERBY: By withholding his cargo until he gets a lower rate.

Mr. BOLIN: I cannot agree with you there. The man who owns the boat makes the rate. If he does not like it he need not take it.

Mr. ENDERBY: I can take you back to where grain was withheld until a bargain was made on a 10,000,000 bushel shipment at a broken rate of 2 cents a bushel.

Mr. BOLIN: That might happen.

Mr. ENDERBY: It did happen.

Mr. BOLIN: But the boat-owners could withhold the boats to get the rate up.

Mr. ENDERBY: Why not clean up those evils by having somebody in charge of freight rates?

Mr. BOLIN: It is not practical.

Hon. Mr. HORNER: The shipper is like the western farmer, he is up against it.

The CHAIRMAN: We are having a good time, but we are not getting anywhere.

Hon. Mr. LAIRD: Why cannot we regulate shippers too?

Mr. BOLIN: I think we have all heard about the Canadian Wheat Pool.

The CHAIRMAN: Let us get back to the Bill.

Mr. BOLIN: Well, Mr. Chairman, that is one of the chief objections we have as operators in buying and selling grain.

Hon. Mr. LAIRD: How can they ship grain through in large quantities unless it is sold? How do they cover it with drafts and bills of lading?

Mr. BOLIN: It is just the same as if in the elevator. When the grain is loaded on the boat the bill of lading has the same force and effect as a warehouse receipt.

Right Hon. Mr. MEIGHEN: There is always a document to represent it.

Mr. BOLIN: Yes, the same as the warehouse receipt.

Hon. Mr. MACARTHUR: Mr. Bolin, does this situation ever arise? Sometimes you get a slightly increased price on the grain because you secure a better rate than you expected, and sometimes you do not and you lose a little.

Mr. BOLIN: Yes. There is no such thing as a fixed handling charge on grain. You might as the owner of grain decide to ship to Montreal or some other St. Lawrence port, figuring you would meet a demand for what we call spot grain because it is ready to ship, and sometimes there is a premium in effect for that. Naturally we take advantage of it. On the other hand sometimes the buyers do not want it.

Hon. Mr. HORNER: As a general trader in wheat, what effect on the price has the practice of shipping the wheat down the lakes unsold? You mentioned that the U.K. buyer takes advantage of the fact that the wheat arrives there unsold.

Mr. BOLIN: I should like to explain that. In what is known as a seller's market, that is when the seller can dictate to the buyer the price, the amount shipped, and so forth, we can get the buyer to buy grain at Fort William before it is shipped; but during the last five years the buyer had the whiphand on us, he dictated where the grain was to be shipped and how much he was to get. In practice we found we could not buy grain for shipment as he wanted it within a week or ten days. Therefore to conform with his wishes we shipped to the seaboard to have it ready when he would want it. It depends on the conditions prevailing. As I said, if there is a demand for spot grain, sometimes you can get a premium. If the condition is reversed and the spot stuff is a drug, you have to take a discount, for the U.K. buyers are just as well posted on the grain situation in Canada as we are, and if they find there is a glut of grain at the seaboard they know very well the only alternative you have is to pay storage and interest. So they keep pounding you down until you weaken.

[Mr. F. E. Bolin.]

The CHAIRMAN: Thank you, Mr. Bolin.

Who is the next witness?

Mr. C. GOWANS: Mr. Chairman, I am representing the transportation interests of the Montreal Corn Exchange.

A minute ago one gentleman at the end of the table asked what became of the documents covering grain that went abroad unsold. The majority of grain bills of lading are issued in the name of the bank; the insurance certificate the same way. They go into the bank, and the owner of the grain instructs that bank to sell it abroad. If he sells the grain while it is afloat he cables the bank agent on the other side to collect a certain amount against it, and the transaction is closed.

From the standpoint of the transportation interests, the most serious feature of the Bill, as we see it, is that we are attempting to hold an umbrella over the Buffalo route.

The CHAIRMAN: What do you mean by that expression, Mr. Gowans? It may not be intelligible to those who study the evidence.

Mr. GOWANS: It is pretty difficult to put in parliamentary language.

The CHAIRMAN: We will accept it in other language.

Mr. GOWANS: We did not bring any legal talent with us.

Right Hon. Mr. MEIGHEN: It means you offer a measure of protection to the Buffalo route.

The CHAIRMAN: That is what I thought it meant.

Mr. GOWANS: Yes. There are two features to the Buffalo route. Last year, it is quite true, the majority of the grain that moved to Buffalo went in Canadian bottoms. That is not always the case. We have seen a tremendous movement by the American ore carriers when they were short of ore or other business on the Canadian lakes.

Now, Mr. Chairman, you will remember that you went to Cleveland about 1923 on that subject. We had a big crop to move, and it is not always possible for the Canadian carriers to carry all the grain that we have to export. We had a very small crop last year, and we have a very small carry-over this year. It looks to me as though the lake lines would have somewhat slender pickings after the 1st of June, because there is not enough grain in the country to keep the transportation interests busy. If you open the business to Buffalo, under normal conditions the American ore carrier may see fit to work from Fort William to Buffalo, and you have a low water rate from Buffalo to New York by the Erie canal. It may be true, as Senator Dandurand said, that a bill is before the American Congress to establish rates from Fort William to Buffalo, but is any attempt being made by the American Government to alter the low rates in effect from Buffalo to New York via the canal route?

Hon. Mr. GRIESBACH: Does much grain go by the Erie canal?

Mr. GOWANS: Yes, sir. I have here a statement that we should like to file. In 1935 there were 593,828 tons of wheat moved by the Erie canal.

An Hon. SENATOR: Canadian grain?

Mr. GOWANS: We do not know. But if you take the crop statistics for the present year you will find that 13 million bushels of grain have been exported through the port of New York; and if that could be exported by the St. Lawrence route, it would mean good earnings for the lake lines.

Right Hon. Mr. MEIGHEN: Is it not a fact that the Erie canal is owned by New York State and that the federal authorities could not fix any rate?

Mr. GOWANS: That is a legal question, sir.

Hon. Mr. DANDURAND: Have they been utilizing the terminal facilities at Albany?

Mr. GOWANS: Yes, sir. But take, for instance, the water rates from Buffalo to New York that were in effect in 1935. For the week ending June 15 the

rate on wheat was 3 cents a bushel. It dropped to 1 cent a bushel and continued to August 31. For the week ending September 7 it was 2 cents; for the week ending September 21 it was 1½ cents; for the next two weeks it was 3 cents; for the week ending November 23 it was 3¼ cents, and for the final week of navigation it was 3½ cents.

Hon. Mr. GRIESBACH: From where to where?

Mr. GOWANS: From Buffalo to New York, via the Erie canal. What kind of rates have the Canadians got to make to meet that competition?

Mr. Bolin referred to the market of the United Kingdom, but when we come to the continent it is an entirely different proposition. Under normal conditions that big market is tributary to New York, Albany, Baltimore and Philadelphia. There are services at New York that we do not enjoy. You have usually a lower basis of ocean rates. You have large carriers like the Royal Belge, which will take 350,000 bushels in one bottom—not a tramp, but a liner. That gives you an idea of the competition the St. Lawrence route must meet on the continental business.

Hon. Mr. LAIRD: Is there much of that grain shipped by Hudson bay?

Mr. GOWANS: Last year it was about 3 million bushels.

Hon. Mr. HORNER: Five million bushels last year.

Mr. GOWANS: There is about 600,000 left there for the opening of navigation.

Hon. Mr. BALLANTYNE: And it is 500 miles shorter to Liverpool. I am amazed you do not ship more.

Hon. Mr. HORNER: It was 5 million in 1936.

Mr. GOWANS: I should like to file these statements furnished to us showing the tonnage handled and the rates actually in effect.

State of New York—Erie Canal
Extract from Annual Report for Year 1935
Traffic and Freight Rates on Grain via Canal

The grain transported on the canal this season (1935) amounted to 866,823 net tons (30,599,600 bushels) as compared with 933,348 net tons (33,184,893 bushels) in 1934, as shown in the appended Table, which shows the amounts shipped for the past ten seasons in net tons and bushels. This decrease was wholly due to the curtailed shipments in this country. In 1934, there were 152,523 net tons transported west, while in 1935, there were 251,968 tons so moved, all of which is imported grain.

At the opening of the season, canal rates from Buffalo to New York were reported to this office in cents per bushel, as follows:—

	Wheat	Corn	Oats	Barley
Domestic	3½	3½	3	3½
Bonded	3	—	—	—
which rates held until the week ending June 15. For the week ending June 22, the rates dropped to	1	1	1	1
and continued to and including August 31. For the weeks ending September 7 and 14, the rates were reported as . .	2	2	2	2
and for the week ending September 21, the rates dropped to	1½	1½	1½	1½
The following two weeks the rates were	2	2	1½	2
and for the week ending October 12, the rates were	3	3	2½	3
The rates continued to and including November 16. For the week ending November 23, the rates were	3¼	3¼	3	3¼
and for the final week of navigation, the rates were	3½	3½	3¼	3½

[Mr. C. Gowans.]

The average rates on wheat per bushel for the season were: bonded, 2·16 cents, and domestic 2·29 cents from Buffalo to New York.

Owing to the low rates offered for the movement of grain from Buffalo to New York in the early part of the season, several fleets left Buffalo light and proceeded to New York for westbound cargoes.

Up to May 15, the grain receipts at Buffalo were about 50 per cent less than a year ago.

TABLE SHOWING ERIE CANAL GRAIN TRAFFIC

Year	Wheat		Corn		Oats	
	Net Tons	Bushels	Net Tons	Bushels	Net Tons	Bushels
1926	503,432	16,781,067	8,645	308,750	21,048	1,315,500
1927	574,483	19,149,434	7,084	253,000	12,880	805,000
1928	1,005,424	33,514,133	1,867	66,679		
1929	663,880	22,129,333	3,515	125,536	2,973	185,813
1930	1,182,045	39,401,500	3,214	114,785	647	40,438
1931	1,113,776	37,125,867	5,813	207,607	9,645	602,813
1932	886,008	29,533,600	144,031	5,143,964	70,701	4,418,813
1933	546,333	18,211,100	183,689	6,560,321	22,317	1,394,813
1934	660,206	22,006,867	151,426	5,408,071	48,541	3,033,813
1935	593,828	19,794,267	178,057	6,359,179	32,708	2,044,250

Year	Rye		Barley		Total Grain	
	Net Tons	Bushels	Net Tons	Bushels	Net Tons	Bushels
1926	67,344	2,405,143	227,788	9,491,167	828,257	30,301,627
1927	38,880	1,388,571	185,858	7,744,083	819,185	29,340,088
1928	34,899	1,246,393	139,887	5,828,625	1,182,077	40,655,830
1929	10,451	373,250	161,212	6,717,166	842,031	29,531,098
1930	2,962	105,786	2,456	102,333	1,191,324	39,764,842
1931	3,484	124,429	76,762	3,198,417	1,209,480	41,259,133
1932	65,767	2,348,821			1,166,507	41,445,198
1933	3,750	133,929	5,660	235,833	761,749	26,535,996
1934	52,553	1,876,892	20,622	859,250	933,348	33,184,893
1935	32,090	1,146,071	30,140	1,255,833	866,823	30,599,600

Now, there are only two other items we would like to call attention to. The first is Part V, section 19, on page 9, which has to do with harbour tolls. The Bill reads at present:

The Board shall when requested by the Minister make inquiries—and so on. We would ask an amendment along the following lines:

The Board shall when requested by the Minister or any carrier or trade body. Our reason for asking this is that we would like to have a trade body privileged to register a complaint with the Board of Transport Commissioners for investigation, if any is necessary.

Right Hon. Mr. MEIGHEN: Do you want the Board to decide it then?

Mr. GOWANS: We would like to see them at least decide as provided in the Bill, and submit the result or publish the result of their findings, because you will notice the Bill gives the Minister the entire say as to whether he will take any action or not.

Hon. Mr. BALLANTYNE: In other words, you want an amendment made to provide that if anyone has a complaint they can go direct to the Transportation Commission, or the Board of Railway Commissioners, as we know it. As the Bill is now drawn that is left to the Minister.

Mr. GOWANS: Yes.

Hon. Mr. BALLANTYNE: He may refer or he may not; and after the Railway Commissioners make their finding, he may act on it or he may not. As I understand it, you want these complaints to go direct to the Commission, and its findings to be sent to the Minister.

Mr. GOWANS: And published.

Right Hon. Mr. MEIGHEN: Do you want the findings to be decisions?

Mr. GOWANS: We would like that if possible, but if it is not possible on account of any legal point—

Right Hon. Mr. MEIGHEN: There is no legal point.

Mr. GOWANS: Then we would prefer that the Railway Commission decide.

Hon. Mr. DANDURAND: When it comes to the question of tolls, that must be done by the Governor in Council.

Mr. GOWANS: In that event, instead of saying "the Minister," could it not be made to read "the Governor in Council"?

Hon. Mr. BALLANTYNE: You understand that the port manager makes his recommendations to this Board. If the Board agrees, then there is an Order in Council passed and the rates go into effect. If anybody takes objection to those rates, instead of the objection being made to the Minister you want it to go to the Commission for a final decision; and the only move then for the Minister would be to take it to the Governor in Council, according to the statute. Of course, the Governor in Council may not agree with the Railway Commission's findings, but in any event you want the Railway Commission's findings published?

Mr. GOWANS: Yes, sir.

The only other point is the item dealing with brokers. That is Part VII, sections 24 to 27. Whether we have misread that article or not I do not know. I have read the remarks of the Minister made before your Committee, and he appears to refer to brokers in Winnipeg who, he alleges, are endeavouring to take hold of a block of grain or other freight and force down lake rates. That part of the Bill, as we read it, is so broad that it covers every broker, and anybody who may be acting as a broker for someone else has to procure a licence before he can do any business even with a railway. Clause 25, subsection 2, says:—

Licences shall be issued only to qualified persons and shall prescribe the means of transport whether by rail or by air or by highway or by water in which the broker shall be entitled to carry on business.

I am not here to speak on behalf of the passenger people. There are a lot of passenger brokers, I suppose, between the lake carriers and the ocean end of the business. But why should anyone who uses the railways, have to obtain a licence to do business with them? Many of us are operating under federal charters, and we pay our taxes to the Government, and you are asking us to obtain a licence to continue in business. That may not be the intention, but that is the way we understand the clause. Cannot that be clarified?

The CHAIRMAN: Would it be possible that the Minister has had difficulty, and that complaints have been made that the brokers are uncontrollable in some directions and that they ought to be licensed in order that there be some control, as there is in the matter of radio?

Mr. GOWANS: If there is any source of complaint, we would like to know of it. I am not familiar with the freight brokers of Winnipeg, but from the standpoint of the ordinary broker in the vicinity of Montreal, Toronto, or any place else, it seems to me that he should be able to go to the railway company or the lake line and offer the grain he has to ship. I do not think it is fair to say that every broker attempts to get the rates down below a point at which it is economical to carry the traffic. It is true that at Winnipeg the brokerage on grain is a fraction of a cent a bushel, but on package freight it is a percentage of the total freight charges. The average through the year is about 1¼ per cent. What advantage has an average freight broker to gain by getting rates down? He would just be depriving himself of so much brokerage.

[Mr. C. Gowans.]

Right Hon. Mr. MEIGHEN: Is it not apparent that if you are going to control rates in a certain sphere of water traffic you have to control brokers who are dealing in that same sphere?

M. GOWANS: No, sir, because you can take a firm in Winnipeg who could then go direct to the carrier and make his arrangements. The broker is only acting as agent for someone else. He does not make the rates.

Right Hon. Mr. MEIGHEN: Even assuming that we should control certain sections of water traffic, there is no need of controlling the broker?

Mr. GOWANS: There is no need of controlling the broker any more than there is of attempting to control the ordinary firm.

Right Hon. Mr. MEIGHEN: That is to say, there is no reason for controlling the broker any more than there is for controlling the actual shipper?

Mr. GOWANS: There is no reason for controlling the broker any more than the actual shipper.

The CHAIRMAN: He is doing business for himself.

Mr. GOWANS: Our own particular firm happens to represent a number of firms on the other side and in Canada, but we have no personal interest. We are not getting a commission out of the lake line as it stands; we have no personal interest in the matter of whether a man pays 5 or 6 cents. We have to do the best we can for the people we represent.

Hon. Mr. DANDURAND: You speak as a broker?

Mr. GOWANS: Yes. Mr. Bolin mentioned the question of the amount of grain at the seaboard unsold, and the fact that the United Kingdom buyer knows very well what the situation is and can base his price or bids accordingly. I was in London three weeks ago and was sitting one afternoon in the office of one of the largest millers. He could tell me exactly who owned the grain that was in store at Halifax and Saint John unsold at the present time, and his remark to me as we finished our conversation, was: "Well, I think I will get some cheap grain before winter navigation closes."

Hon. Mr. DANDURAND: Possibly one reason for a licence is to enable the Government to control those who do business. The Government has a certain responsibility, perhaps.

Mr. GOWANS: The Government would not be controlling it in that way, sir, because we only act as agents for somebody else.

Hon. Mr. DANDURAND: If you are doing wrong you can be controlled through a licence. I do not say that is the reason for requiring a licence, at all.

Hon. Mr. LAIRD: In criticizing the Bill you have spoken only with regard to grain. Would your criticisms apply also with regard to the bulk carriage of cement, or coal, or lumber, for instance?

Mr. GOWANS: I think what I have said, sir, would apply, just as it does in connection with grain. I represent the Grain Exchange and I do not consider that we should speak for any allied interest. But I am quite sure that anything I have said applies equally to bulk cargo of every nature, moving either west-bound or eastbound.

I should like to file, simply as a matter of record, an extract from the Act that was assented to in June, 1923, and another amendment to the Inland Freight Rates Act.

The CHAIRMAN: I will now call upon Mr. R. A. Carter, of Montreal, whose name is the last on our list.

Mr. R. A. CARTER: Mr. Chairman and Gentlemen, I represent the St. Lawrence Steamship Lines, Limited, Montreal.

Right Hon. Mr. MEIGHEN: That is Mr. Crosby's line?

Mr. CARTER: Yes sir. In a newspaper report Mr. Crosby's firm was referred to as a firm of brokers in Buffalo. I should like to make it clear that the St. Lawrence Steamship Lines, Limited, is a Canadian company, with head office in Welland, Ontario. Its boats were built in Great Britain in 1929 and are registered in Montreal. Originally the capital that went into the company was American capital, the owners being Mr. Crosby and several of his associates in Buffalo. Since boats went into business in Canada, the earnings over and above the operating expenses and a small fee for management have been sent to the builders, and really represent Canadian capital or Canadian interest in the boats. When Mr. Crosby wrote his letter to you, Mr. Chairman, he did not have Bill B before him; he had only an extract. He refers to the question of licensing the boats, and he seems to think that each time a boat makes a trip it would require a separate licence. My reading of the Bill, which I have had since his departure for the other side, leads me to believe the licence would be an annual one and would only be withdrawn by the Transport Commission or the Minister if the licensee broke some regulation of the Commission.

Mr. Crosby also thinks that the law should set forth that the Minister would be obliged to issue a licence to all boat owners who are presently operating on the Great Lakes under the Canadian flag. The Bill says the Minister may grant a licence or refuse it, as he thinks fit.

Mr. Gowans has submitted a memorandum of the rates from Buffalo to New York. It is Mr. Crosby's idea that no matter what authority is given to the Transport Commission, it will not be able to handle matters quickly enough to compete with the rise and fall of the rates from Buffalo to New York. In addition to that, we are now faced with the situation that Norwegian boats are to-day carrying coal from lake Erie to Quebec in competition with our own boats. They are carrying it at a rate lower than we can meet. On two or three occasions we have had a boat going light from lake Erie to Quebec, while a Norwegian boat was running alongside us with a load of coal consigned to the same dock that we were going to load the next westbound cargo from.

The CHAIRMAN: You are speaking of a return cargo?

Mr. CARTER: It would have been a return cargo for us; we would have had it if the Norwegian boat had not interfered. And we think that the Norwegian boats cannot be regulated by a Canadian Commission, so we would be left in a worse position than we are now, if this Bill passes.

Hon. Mr. HORNER: Your company is opposed to the Bill in its present form?

Mr. CARTER: Yes, because we do not think the authority given to the Transport Commission will enable it to handle rates promptly enough to meet competition.

Hon. Mr. GILLIS: You are particularly opposed to the licensing feature?

Mr. CARTER: No, sir. I explained that I think Mr. Crosby, when writing his letter to the Chairman, misunderstood what the rules would be as regards a licence. He thought there would have to be a separate licence for each trip, whereas my understanding is that a licence would be issued for a year, or during good behaviour.

Hon. Mr. GILLIS: If a boat changed its route during the year it would need a new licence, would it not?

Mr. CARTER: Mr. Crosby's boats are really equivalent to what would be tramps on the ocean. We carry very little freight under contract. We go wherever a load offers, and if we had to have a licence every time we made a trip, if we had to apply for a licence before we could make a trip, we might lose business.

Right Hon. Mr. MEIGHEN: If you had an annual licence which applied to only one route, and you had to change your route, your business would be seriously impeded through the necessity of applying for another licence?

[Mr. R. A. Carter.]

Mr. CARTER: Yes, sir.

Hon. Mr. DANDURAND: You have stated that your boats have gone down light from Lake Erie to Quebec?

Mr. CARTER: Yes, sir. A Norwegian boat in competition with us carried a load of coal to the same dock in Quebec that we were going to load from. We could not carry the coal at a rate so low as the Norwegian boat could. We do not believe the Transport Commission could regulate the rate there, because it really amounts to international trade.

Hon. Mr. DANDURAND: That is a legal question.

Mr. CARTER: That is as we understand it, sir.

Hon. Mr. DANDURAND: Where did that coal come from?

Mr. CARTER: A shipping port on Lake Erie, probably Ashtabula or Erie.

Hon. Mr. DANDURAND: And it was going where?

Mr. CARTER: From Lake Erie, an American port, to Quebec. These Norwegian boats also carry paper from Prescott to ports on Lake Michigan. Those are only shipments of 500 ton. They do not compete with us on newsprint from Quebec, because their cubic is too small.

The CHAIRMAN: Are there any questions? If not, I will ask the Clerk of the Committee to read telegrams that have been addressed to us.

The Clerk of the Committee then read the following telegrams:—

1937 Feb 15 PM 5 08

Sydney NS
Senator GEO. P. GRAHAM
Ottawa Ont

Sydney Board of Trade regard Transport Bill as serious menace to steel and coal trade into St. Lawrence and Great Lakes and urge elimination of sections applicable to water transportation.

D. J. BONNELL,
President.

1937 Feb 15 PM 5 02

Glance Bay NS
Senator GEO. P. GRAHAM
Ottawa Ont

Glance Bay Board of Trade protests Transport Act application to shipping which seriously threatens St. Lawrence and Great Lakes coal trade in which this community is vitally interested.

CHARLES R. MEYERS,
Secretary, Glance Bay Board of Trade.

1937 Feb 15 PM 5 09

Sydney NS
Senator GEO. P. GRAHAM
Ottawa Ont

Associated Boards of Trade Cape Breton Island protest Transport Bill applying to water transportation and thereby threatening serious blow to Nova Scotia industries.

A. C. ROSS,
President.

Vancouver B C Feb 15-37

CHAIRMAN, SENATE COMMITTEE
in Charge of Transport Bill
Ottawa Ont

Careful consideration has been given Transport Bill by members this organization engaged in intercoastal and coastwise shipping including passenger freight vessels and towboats and at meeting to-day attended by representatives of all the important companies in this trade on this coast the opinion was unanimous that owing to the innumerable difficulties which would be experienced in operating any such legislation that its application to coastwise shipping on the Pacific coast and intercoastal should be deleted from the Bill.

J. H. HAMILTON, *Secretary*
Vancouver Merchants Exchange

Vancouver BC Feb 15

E. A. SAUNDERS
Halifax Board of Trade
care of Chateau, Ottawa

Wire received support any movement in opposition interfering with present satisfactory coastwise and intercoastal services particularly Vancouver St. Lawrence the only regular service between Vancouver Montreal and Halifax and which is giving entire satisfaction this part of Canada. We are opposed to any steps taken which would tend to interfere with present rates and service.

W. E. PAYNE, *Vancouver Board of Trade*

Toronto Ont 1937 Feb 11 AM

Hon C. D. HOWE
Minister of Transport Ottawa

Sorry could not be Ottawa this morning only important matter kept me here. Am confident new Bill will be benefit to shipping and shippers.

N. M. PATERSON

The CHAIRMAN: Where is that last telegram from?

The CLERK: The telegram is from Toronto, Mr. Chairman, but I understand that Mr. Paterson's home address is Fort William, Ontario.

Right Hon. Mr. MEIGHEN: Mr. Paterson deals in grain and also ships his own grain.

The CHAIRMAN: The airways, The Canadian Manufacturers' Association and the Canadian Industrial Traffic League will be represented here to-morrow.

Hon. Mr. DANDURAND: Mr. Varcoe, of the Department of Justice, can give us his opinion to-morrow as to our treaty obligations.

The CHAIRMAN: I suppose after all the representations have been heard from those objecting to the Bill somebody on behalf of the government will reply.

Hon. Mr. DANDURAND: No doubt there will be an answer to the various objections presented, and where the department thinks some changes may be made they will present the necessary amendments for our consideration.

The CHAIRMAN: When we get to that point we will take the Bill up clause by clause.

Hon. Mr. MACARTHUR: When will the Bill be taken up?

Hon. Mr. DANDURAND: We will decide that on Thursday.

The committee adjourned until to-morrow at 10.30 a.m.

THE SENATE OF CANADA



PROCEEDINGS

OF THE

STANDING COMMITTEE

ON

RAILWAYS, TELEGRAPHS AND HARBOURS

ON

BILL B

An Act to establish a Board of Transport Commissioners
for Canada, with authority in respect of transport
by railways, ships, aircraft and motor vehicles

No. 4

The Right Honourable GEORGE P. GRAHAM, P.C.,
Chairman

WITNESSES:

- Mr. J. E. Walsh, General Manager, Canadian Manufacturers' Association, Toronto.
Mr. S. B. Brown, Manager, Traffic Department, Canadian Manufacturers' Association,
Toronto.
Mr. J. A. Wilson, Controller of Civil Aviation, Department of Transport.
Mr. G. A. Thompson, General Manager, Canadian Airways, Ltd., Winnipeg.
Mr. James Mayor, President, Canadian Industrial Traffic League, Toronto.
Mr. F. P. Varcoe, Counsel, Department of Justice.
Mr. C. J. Burchell, K.C., Halifax, N.S.

COMMUNICATIONS:

- From Mr. A. Roy Brown, President, General Airways, Ltd., Toronto.
From The Winnipeg Board of Trade.

THE STANDING COMMITTEE ON RAILWAYS, TELEGRAPHS AND
HARBOURS

The Rt. Hon. GEO. P. GRAHAM, P.C., Chairman

The Honourable Senators

Arthurs	L'Espérance
Ballantyne	Logan
Barnard	MacArthur
Beaubien	Marcotte
Black	McDonald (<i>Shediac</i>)
Bourque	McGuire
Buchanan	McLennan
Calder	McRae
Casgrain	Meighen
Copp	Michener
Dandurand	Molloy
Dennis	Moraud
Farris	Murdock
Gillis	O'Connor
Gordon	Parent
Graham	Pope
Green	Rainville
Griesbach	Raymond
Haig	Robinson
Hardy	Sharpe
Harmer	Spence
Horner	Sutherland
Jones	Tobin
Lacasse	Turgeon
Laird	Webster—50.

(Quorum 9)

MINUTES OF EVIDENCE

THE SENATE,

WEDNESDAY, February 17, 1937.

The Standing Committee on Railways, Telegraphs and Harbours, to whom was referred Bill B, an Act to establish a Board of Transport Commissioners for Canada, with authority in respect of transport by railways, ships, aircraft and motor vehicles, met this day at 10.30 a.m.

Right Hon. George P. Graham in the Chair.

The CHAIRMAN: What are we taking up today, Mr. Clerk?

Mr. HINDS (Clerk of the Committee): The Canadian Manufacturers' Association, Canadian Airways, and Canadian Industrial Traffic League desire to be heard this morning.

The CHAIRMAN: Well, Mr. Walsh?

Mr. J. E. WALSH (General Manager, Canadian Manufacturers' Association): Mr. A. D. Huff, Chairman of our Transportation Committee; Mr. Stuart Brown, Manager of our Transportation Department, and I appear on behalf of the Canadian Manufacturers' Association.

There are five main objections to this proposed legislation, some of which have already been dealt with, to which at the outset I wish to call particular attention, Mr. Chairman. These objections are directed to provisions of the Bill with respect to agreed charges, bulk carriers, coastwise traffic, intercoastal services, and highway traffic.

Hon. Mr. DANDURAND: When you are through, Mr. Walsh, perhaps you will indicate the points on which you agree.

Mr. WALSH: We propose, sir, to deal briefly with the Bill in our memorandum, which we will submit to you in a moment.

The CHAIRMAN: Mr. Walsh's organization, as you may be aware, gentlemen, covers a broad field.

Mr. WALSH: We are, as you know, a national organization. We have between 3,500 and 4,000 members all over Canada interested in all kinds of transportation, coastwise, intercoastal and export.

This draft Bill is one of the most important pieces of proposed legislation ever presented to a committee of the Senate or of the House of Commons. I therefore respectfully suggest that it call for the fullest inquiry and that the shipping public should be given every opportunity for placing before the Committee their views, as was the case prior to the passing of the Railway Act. Prior to the enactment of that legislation a commission was appointed to make inquiries and recommendations. Then followed the Railway Act and the Board of Railway Commissioners. That body on the whole acted fairly, we believe, as between the public and the transportation interests subject to its jurisdiction.

The CHAIRMAN: That legislation required quite a number of amendments in its initial stages.

Mr. WALSH: I happened, Mr. Chairman, to be actively engaged in transportation matters. Indeed, I joined the Canadian Manufacturers' Association in 1906. The Board of Railway Commissioners had just begun to function at that time.

This proposed legislation suggests something new. In one case it means a return to conditions which existed prior to the inquiry of 1903 into the abuses then prevailing. I refer to agreed charges.

In so far as placing water carriers, particularly bulk or cargo carriers, under the jurisdiction of the proposed board, this was the subject of inquiry at different periods between 1914 and 1919, and finally was thrown out by the House of Commons. I think you will remember the occasion, Mr. Chairman.

We have prepared a memorandum on short notice which we should like to submit to you. But in this connection I again respectfully suggest that there has not been sufficient time or notice to the general public to enable them to give this legislation the study that it calls for. I may add that we have not yet had an opportunity to consult our members from coast to coast.

This proposed legislation is a very serious departure from established practice. We have every desire to co-operate in improving transportation conditions in this country, but we realize that we have competition to meet not only in our inland waters but outside. Take our intercoastal service. Its purpose is to meet foreign competition, either from the United States or Europe. That is the keenest possible competition, and even today with the very efficient service we have between the Atlantic and the Pacific, we are confronted with exceedingly low rates on return cargoes from European ports. As a matter of fact, the conditions are such that our manufacturers in the east have to meet exceptional cases. I may put the matter briefly in this way. The Pacific coast, so far as we are concerned, is our eastern export market.

Right Hon. Mr. MEIGHEN: Your eastern export market?

Mr. WALSH: We have competition from the United States, very keen competition from Belgium in iron and steel, and from Great Britain and other countries as well, with the result that vessels return more or less light.

The CHAIRMAN: We have been listening for a long while, Mr. Walsh, to men discussing the disabilities of vessel-owners and the shipping trade generally. I want to have it made clear that you are talking about merchandise. The competition, as I understand, that you refer to is the competition which our manufacturing industries have to meet.

Mr. WALSH: Yes, sir, I am talking entirely from the standpoint of merchandising of goods and meeting competition. I think we were to a very great extent responsible for the establishment of this intercoastal service that we have today.

Right Hon. Mr. MEIGHEN: What do you mean by intercoastal?

Mr. WALSH: From the Atlantic to the Pacific.

Right Hon. Mr. MEIGHEN: Through the Panama canal?

Mr. WALSH: Yes. Many years ago we had a service across the Isthmus of Panama by Tehuantepec railway.

Hon. Mr. DANDURAND: And this was done to reduce the costs which you were paying to the railway?

Mr. WALSH: You may say that, sir, but it was not the prime factor. As an organization we are not asking, and we have never asked, for anything except what is necessary to meet competition. We recognize the importance of the railways and that they are among our best customers, but if this service is not continued the only option we have is to go out of business.

Hon. Mr. DANDURAND: You felt that the cost of transportation by land was too high for your purposes and you have taken advantage of the water route.

Mr. WALSH: Yes, sir. We discussed these matters with the railways, and I frank to say that they have been very helpful to us in meeting this competition on the coast. We have a system of transcontinental rates, the best of its kind.

[Mr. J. E. Walsh.]

There is nothing like it in the United States. Our Board of Railway Commissioners, recognizing what we were up against, permitted rates to be made from Eastern Canada to the Pacific coast terminals lower than to intermediate points. These low rates brought strong protests from Calgary, Edmonton and other centres, but the Board said, "If we do not allow the railways to put these rates into effect they will not get any traffic, and the manufacturers will lose the business." So there has been the fullest possible co-operation from the railways, and I am satisfied that a number of shippers now present—they are members of our Transportation Committee—will endorse my statement. I am thoroughly familiar with the situation, for I have been in this field for thirty years with the Canadian Manufacturers Association, and prior to that I was in the transportation business.

With regard to highway traffic, our organization has been in touch with this problem for fully ten years. When it became apparent that there was likely to be such a development, we appointed a committee to study and ascertain its possibilities, and, if found necessary, to secure legislation to protect the legitimate carrier against the fly-by-night operator, and in so doing protect ourselves. In this we have had considerable success in the provinces, as indicated in our brief, the provincial Governments, with one or two exceptions, having placed on the statute books legislation intended to control highway carriers within their jurisdiction.

The truck traffic commenced about ten years ago. It became apparent to us, as large shippers, that this traffic would likely develop pretty severe competition, and that there should be some measure of regulation and control to protect the legitimate carrier.

Hon. Mr. DANDURAND: You speak of severe competition. Competition with whom?

Mr. WALSH: Competition between the truck operators in the first place. The competition we had to consider was that between the legitimate highway carrier and the illegitimate, the fly-by-night man, who was able to get a truck, run it for a year or two and then throw it into the scrap heap. There were, I believe, certain things—methods of distribution, pick-up and so forth—that forced this traffic to the trucks.

As stated at the outset, Mr. Chairman, this is a very serious piece of legislation, and I am authorized to suggest to you, sir, that it should be postponed for a year to give us an opportunity to go further into it.

With your permission, I would ask you to hear Mr. Brown.

The CHAIRMAN: Very well.

Mr. S. B. BROWN (Manager, Traffic Department, Canadian Manufacturers' Association): Mr. Chairman and members of the Committee, in dealing with Senate Bill B, two main considerations are presented as follows:—

First: What complaints have been made with respect to existing conditions of various transportation services, and by whom have these complaints been made.

Second: What will be the effect from the standpoint of users of those transportation services if the conditions embodied in this Bill are adopted.

In respect to the first matter, the Canadian Manufacturers' Association has not received any clear-cut or definite complaints in regard to existing conditions requiring Dominion legislation. In respect to water transportation it is true that there has been a dispute between the operators of package freight services on the lakes and the railway companies, resulting in rate cutting, particularly during the past year, and it is understood that some efforts have been made seeking to secure co-operation between these carriers.

I merely cite that as something we know of; but we have no clear-cut complaints from our members about it.

In respect to motor vehicle services, the Association has been dealing with this subject over a period of approximately ten years, making representations to the provinces, and as a result has secured the establishment of certain principles of legislation in practically all of the provinces. There is still some work to be done in this connection.

In other words, we have gone to the various provinces and asked them to establish legislation based upon six principles, and as I say, they have largely adopted that legislation, though there are still some provinces—notably Ontario and Quebec—that have not completed that program.

HON. MR. GRIESBACH: Are those principles set out in the memorandum?

MR. BROWN: They are not, but I have a memorandum which outlines that picture very fully, and I should be glad to hand it to the secretary.

At the outset it may be stated that the users of the various transportation services are primarily interested in the maintenance and development of various classes of transportation in such a way as to provide adequate, reliable, and prompt service at reasonable rates. The users of these services should not be denied the right to employ the service best suited for the particular movement of traffic which they may have under consideration, and no legislation should be adopted which has for its purpose, or would result in, placing any particular class of transportation in a preferred position either in regard to service or rates. In other words, each class of transportation should stand on its own foundation, and where unfair practices are found to exist in connection with any class of service, such reasonable steps as may be necessary should be taken to correct these conditions.

In considering the question of regulating various classes of transportation services through a public tribunal, the grievances or unfair practices existing should be thoroughly understood in order that the legislation may deal properly with these matters. It would also appear necessary to determine the practicability of working under the legislation or regulations issued pursuant thereto. So far as is known no investigation by commission or otherwise has been made into the existing conditions to determine all of the facts.

The formation of the present Board of Railway Commissioners which was welcomed by users of the railway services followed a comprehensive report published in 1902 regarding railway commissions, railway rate grievances and railway legislation. This investigation was made by Professor S. J. McLean, now Assistant Chief Commissioner of the Board of Railway Commissioners. The Board of Railway Commissioners has been in existence since 1904, and the users have therefore become familiar with its practices and the requirements of the Railway Act with respect to traffic, tariffs and tolls.

We are now going to deal with certain features of the Bill—that is if the Bill is to be passed or to be dealt with finally, there are certain things we would like to draw to your attention.

If it is considered necessary to place certain classes of carriers, in addition to railways, under the jurisdiction of the Board of Transport Commissioners for Canada, it is submitted that the legislation should not go beyond the provisions of the existing Railway Act, which has become familiar to the users of transportation services. In addition, it is submitted, that the extent of the jurisdiction provided in Senate Bill B in respect to certain parts would appear to be such as to warrant amendment excluding certain movements which it would be impracticable to deal with in the manner suggested. There is accordingly submitted reference to these features.

Transportation by Water.—The provisions of this part would appear to include all water services operating between two points in Canada.

In this connection serious objection arises with respect to the carriage of bulk goods or cargo lots, as the nature of the transactions surrounding these movements is such as to seriously interfere with the free movement of traffic

if rate control were to be exercised. The handling of the grain traffic, which legislation attempted to control, proved this to be the case, and, as is well known, the provisions of the legislation in that regard had to be interpreted rather broadly to prevent serious injury to the trade. There is also the competitive conditions of movements from Canadian to United States ports which could not be controlled.

Hon. Mr. DANDURAND: Except by Canadian-registered tonnage.

Mr. BROWN: Yes; but with United States tonnage it might not be possible, as we understand it.

Hon. Mr. DANDURAND: That is another matter.

Mr. BROWN: The coastwise traffic plying in waters on the Atlantic and Pacific coasts is another section of the water-borne trade which could not be controlled in a practical manner, and, furthermore, we do not understand that there are any objections being raised to the present system in this trade. There is another trade known as the intercoastal trade—traffic handled between the Atlantic and Pacific coasts moving via the Panama Canal—which is probably one of the most important trades in water-borne traffic. This service in various forms has existed for a great number of years and is absolutely essential in the handling of certain classes of traffic moving between the Atlantic and Pacific ports of Canada.

The CHAIRMAN: Has that traffic paid the vessel owners?

Mr. BROWN: I understand it has. I understand they are quite satisfied with the present situation.

It is primarily designed to meet competitive conditions due to low ocean rates existing from the United Kingdom and European countries as well as similar services operating between United States Atlantic and Pacific ports as well as between United States Atlantic and Canadian Pacific coast ports. The existing service has operated satisfactorily to the users of this service and must be in a position to quickly change rates from time to time in meeting competition from outside of the country.

To sum up, this part should not include bulk carriers or cargo lots, coastwise traffic on the Atlantic and Pacific, or intercoastal services.

Transportation by Air.—This class of transportation is a new one, and in Canada is largely confined to northern areas in the nature of pioneering services. So far as the users of this service are concerned there are no complaints against the present operations and it is believed that any submissions in connection with this matter should best be left to the operators of this service who are in a better position to determine the necessity for and the practicability of legislation of this character.

This part apparently deals with interprovincial and international traffic handled by carriers operating on highways in the different provinces. The users of these transportation facilities have been dealing with certain problems surrounding this class of transportation direct with the various provinces, as the bulk of the movement involved is intra-provincial and subject solely to the jurisdiction of the province. Over a period of ten years the Canadian Manufacturers Association, acting on behalf of its members, has taken certain action to have enacted legislation in line with certain principles, some of which are similar to those outlined in Part 4 of Senate Bill B. There is still some work to be done to have all of the provinces deal completely with these matters, but it can be stated that the operators of motor vehicle services and the users of these services are closely co-operating in respect to these representations. In view of this situation it is submitted that the introduction of Part 4 dealing with interprovincial and international traffic only tends to duplicate what the provinces are dealing with and requires double licensing and many other duplicated features which would tend to interfere with the reasonable development of

this class of transportation and the legislation and regulations which the users and operators are endeavouring to secure through the provinces. If the jurisdiction of the Dominion were such that it could deal with this matter in its entirety, it might be advisable to adopt this Bill but in view of the existing situation it is submitted that this part should be eliminated from this Bill.

The CHAIRMAN: Do you think it would be a good thing for your business—if you can imagine such a thing—that the provinces and federal authorities should come to some understanding?

Mr. BROWN: We certainly think so.

The CHAIRMAN: Then the object in view is all right; it is the way of getting at it that you object to.

Mr. BROWN: That is exactly the point.

In this connection it might be well to point out that as a result of a Dominion-Provincial Conference in Ottawa in December, 1935, a co-operating committee was set up with a secretary in the Department of Transport designed to deal with this matter in a co-operative manner. It would seem that this co-operative effort should be continued and as a result of their conclusions some further steps may be taken.

Hon. Mr. DANDURAND: That is what the Minister has in view.

Mr. BROWN: What we fear about this is, that you will duplicate what is already there and cause a lot of friction between the Provinces and the Dominion.

Hon. Mr. DANDURAND: I do not think so. I do not believe the Minister would have this part proclaimed before a complete understanding with the Provinces was reached.

Mr. BROWN: Now I come to the part dealing with Agreed Charges. This part is a new departure on this continent and appears to be designed after a similar provision found in the Road and Rail Act, 1933, of Great Britain. In fact, I understand it is almost word for word.

It is submitted that the users of transportation facilities would be seriously injured in the choice of service by the introduction of this arrangement. Furthermore, it would by its actual provisions set aside the conditions of the Railway Act which users of transportation services have become familiar with and found to be satisfactory. It would create many unfair practices, giving to the large distributor and large carrier a preferred arrangement which many of the smaller competitors could not secure. It would have a tendency to disorganize business and interfere with the free flow of traffic. The Railway Act is broad enough at present in its provisions regarding rates and tariffs to permit the carriers under its jurisdiction to meet competitive conditions.

In an explanation made in respect to this Bill it was indicated that it was not designed to favour any particular class of carrier but rather to place them all on a similar footing as regards regulation and with a view to eliminating unfair practices between them: To establish Part 6 of this Bill would, it is submitted, work exactly opposite to the purpose of the legislation, placing an unfair advantage in the hands of large carriers.

The provision of the Road and Rail Act of Great Britain on this same matter has only been in existence for a few years and, notwithstanding information given to the committee, it is understood that there is a growing movement in Great Britain against a number of provisions of the Road and Rail Act, 1933, including the section dealing with Agreed Charges. It actually is working out to the advantage of large carriers and large traders to the disadvantage of smaller carriers and smaller traders, exactly what we fear would result if it were introduced here. Generally, it is submitted, business would at once be thrown into a turmoil and instead of helping the existing situation the whole business

[Mr. S. B. Brown.]

of the country would be upset and great injury would be done to trade generally. The condition existing in Canada cannot be compared with England. The average length of haul, nature of traffic, distribution of population and many other features are quite different in one country as compared with the other.

The next part of the Bill deals with Brokers. In this part it is somewhat difficult to understand exactly what the provision proposes to deal with. If it is intended to cover forwarders or the consolidation of shipments between various shippers by one purchaser then it would appear desirable to determine what complaints have been made against such conditions. We know of no justification for interfering with a consignee's right to have various goods consolidated into a carload shipment, provided he complies with the law and the regulations of the carriers that the goods be shipped on one bill of lading from one shipper to one consignee, because the fact is the carrier is carrying a carload no matter how that carload may have been prepared before it was handed to the carrier. It may be that the section does not refer to these conditions, but if it does, then it is submitted it should be removed from the Bill.

Hon. Mr. GRIESBACH: Are brokers doing that sort of thing now, consolidating shipments?

Mr. BROWN: There are certain organizations known as forwarders, who will gather together shipments from various persons and consolidate them. Each shipper has to pay a certain charge for that service of consolidation. The whole lot is handed to the railroad as a carload shipment, and on arrival at its destination it is broken up and distributed.

Hon. Mr. MACARTHUR: Does the broker get the differential between the carload and L.C.L. rate?

Mr. BROWN: No. He charges a fee for the service of consolidating.

Hon. Mr. MACARTHUR: The L.C.L. rate is quite different from the carload rate?

Mr. BROWN: That is true. But, you see, the railway company gets a carload.

Hon. Mr. MACARTHUR: But who benefits by the saving in the carriage?

Mr. BROWN: Naturally the shippers should get the advantage, because they have the carload rate distributed over the various articles, plus the amount that is charged for consolidating.

Hon. Mr. DANDURAND: The chief complaint that was made to us by brokers yesterday, by prominent gentlemen, was that they objected to being compelled to take out a licence.

Mr. BROWN: May I ask, Mr. Chairman, what kind of brokers they were? I was not here yesterday.

Right Hon. Mr. MEIGHEN: They were steamship brokers.

Mr. BROWN: They are different from what I am dealing with here. We were not quite sure what this section covers; it may not cover what we have in mind at all.

The CHAIRMAN: It was suggested that possibly the requirement to be licensed was for the purpose, as is often the case, of finding out who is in the business and of exercising a modicum of control, if necessary.

Mr. BROWN: What follows now in my manuscript is of general purport, regarding the whole Bill. I would suggest that you draw a line to separate it from the proceeding paragraph, because it has nothing to do with brokers.

The principal sections of the Railway Act of interest to users of rail services are those dealing with traffic, tolls and tariffs. Briefly, these sections require the railways to furnish necessary equipment and facilities for handling and moving traffic, prohibitions against unjust discrimination and a group of sections

dealing with the approval of a classification, standard tariffs and the preparation, filing and posting of tariffs naming tolls, rules, regulations and similar matters.

A railway company under the conditions of the Railway Act is authorized to prepare and publish and is required to file with the Board of Railway Commissioners its freight classification and all of the tariffs naming rates, rules and regulations, dealing with the handling of traffic which it undertakes to carry.

In respect to the classification and the tariff of maximum tolls, the Board requires that these must be approved by it before they can be used. So far as the tariffs naming other tolls generally described as special rates or competitive rates are concerned, the requirements are merely that the tariffs must be filed with the Board and where reductions are made three days' notice must be given, while thirty days is required in the case of advances. Provision is also made, however, for special permission under certain conditions, permitting the carrier to file on less than the statutory notice referred to.

There is also a provision under special circumstances where a railway company is permitted to file, a special rate notice for specific shipments. This special provision, however, is not used to a very large extent as it can only be used under exceptional circumstances.

The CHAIRMAN: Would that come in under the heading of an agreed charge?

Mr. BROWN: No sir, not necessarily. They are special shipments.

Hon. Mr. GUTHRIE: Emergency shipments.

Mr. BROWN: Yes sir. The carriers to-day have a very wide scope in publishing and filing tariffs to meet competition, a much wider scope than railways in the United States have, I might say.

All of the rates published by a carrier are subject to the general provision of the Railway Act against unjust discrimination. We think that is the key-stone of the Act.

The CHAIRMAN: Is it not a fact, generally speaking, that Canadian railway rates are lower than United States railway rates?

Mr. BROWN: If you compare the revenue per ton mile, which is getting down to a unit figure for all the traffic and all the rates, you will find that the Canadian situation is a little bit lower. I do not think there is any doubt about that. That is probably largely due to the low grain rate.

Mr. WALSH: I think, Mr. Chairman, that would call for further investigation before being accepted. Pardon me for interrupting, sir, but I would say that the nature of the traffic must be taken into consideration. And fixed rates in Canada which do not exist in the United States must also be taken into consideration. These two factors very largely account for the difference.

Right Hon. Mr. MEIGHEN: It is mainly due to the grain rates?

Mr. WALSH: Yes sir. And there is the difference in population.

Right Hon. Mr. MEIGHEN: And the Maritime freight rates?

Mr. WALSH: Yes.

Hon. Mr. DANDURAND: I understand that our railroads carry grain 25 per cent lower than the American railways do?

Mr. WALSH: Yes, substantially lower. And the rates were very much lower when they were first put into effect, when the Crow's Nest Pass rates were extended to apply to all lines in the West.

The CHAIRMAN: That was a localized rate that was extended by parliament.

Mr. WALSH: Yes. I think somebody stated in the House of Commons in 1924 or 1925, that the difference between our statutory rates and rates in

[Mr. S. B. Brown.]

contiguous United States territory, rates found to be reasonable by the Interstate Commerce Commission, meant a saving of many millions of dollars a year to the farmers of the Canadian middle West.

Mr. BROWN: It will be seen from what has been shown in our brief that outside of the freight transportation and the standard tariffs which move very little traffic, the railways are fairly free under the present Railway Act to change their rates from time to time and establish a variety of rates to meet competition. In fact, in the past few years the carriers have taken full advantage of these conditions and have made rates to meet competition that were unheard of some years before.

It will be noted that among other things the tariffs must be filed with the Board of Railway Commissioners. At the same time the railways are also required to post them in appropriate places such as their general offices, division offices and local stations from and to which particular tariffs apply. This provides a number of places where these tariffs may be seen by the public. Many shippers or users of rail transportation services also keep on file all tariffs in which they are directly interested. It should also be pointed out that there are thousands of tariffs in effect and the question of keeping track of the changes which are daily taking place through supplements or reissues is quite a problem at the present time.

I might say, Mr. Chairman and gentlemen, that the Canadian Manufacturers' Association keeps a complete file of all tariffs issued by all railway companies in Canada, all express companies and other transportation interests.

The CHAIRMAN: Are there any questions? I may say that Hon. Mr. Guthrie, Chairman of the Board of Railway Commissioners, is here, if anyone wishes to ask him any questions. Apparently there are no questions. Who is your next representative, Mr. Walsh?

Mr. WALSH: That is all, Mr. Chairman, thank you.

The CHAIRMAN: Gentlemen, do you want to ask questions of these gentlemen who represent the Canadian Manufacturers' Association?

We will now hear Mr. D. A. Thompson, representing Canadian Airways, Winnipeg. Before you proceed, Mr. Thompson, we will place on the record a letter received from Mr. A. Roy Brown, who appeared before us the other day.

The Clerk of the Committee then read the following letter:—

GENERAL AIRWAYS LIMITED

President A. ROY BROWN

406 BANK OF HAMILTON BLDG.,

67 Yonge Street,

TORONTO, ONTARIO,

February 16, 1937.

Right Honourable GEORGE P. GRAHAM, P.C.,
Chairman,
Railways, Telegraphs and Harbours Committee,
Ottawa, Ontario.

Dear Sir,—In appearing before your Committee on Wednesday afternoon, February 10th, you will recall that I had not had sufficient time to do but little more than read Bill "B" and enquire for certain information through your Committee.

Since February 10th, I have had an opportunity of considering this matter more fully, and it seems to me that to bring Aircraft Transport Companies in Northern Canada under the Railway Act will do one of

two things. First, if the aircraft operating companies adhere to the terms of the Railway Act, they will not be able to serve the Mining Industry, and will be unable to continue to assist in developing Mining in Northern Canada. On the other hand, if there is no intention of interfering with Northern Operations, it will then put the Northern Operator, who has pioneered Aviation in Canada in the position of a breaker of laws with the knowledge and approval of the Government. It seems to me, in view of what appears to be a fact, that for some years, Northern Canadian Aviation will continue to be much more important to Canada both from the standpoint of actual traffic, and the actual real service to Canada, that it should not be placed in the minority position with the Trans-Canada Service.

My suggestion to your Committee, Sir, would be that Aircraft Transport be placed under a separate and distinct Air Navigation Act, similar to what is done in England. Were this done, the industry of Aviation could be handled for its own encouragement by methods suited to the Industry. If this is not done, and it comes under the Railway Act, unless the Act is not to be enforced regarding Aviation in Northern Canada, the development of mines by air in Northern Canada will, of necessity be forced to cease. I am sure this is not the wish of the Government and that no such misfortune will result.

Yours respectfully,

A. ROY BROWN.

The CHAIRMAN: Now, Mr. Thompson.

Hon. Mr. DANDURAND: What is the extent of your operations, Mr. Thompson?

Mr. THOMPSON: We operate from coast to coast.

Right Hon. Mr. MEIGHEN: You do a lot of northern work too?

Mr. THOMPSON: Yes, sir.

Right Hon. Mr. MEIGHEN: You operate a number of regular services?

Mr. THOMPSON: We carry on the same type of operations as the northern operator does, and in addition to that we have the interurban services between Moncton and Charlottetown, and Vancouver and Seattle.

Right Hon. Mr. MEIGHEN: Not across the continent?

Mr. THOMPSON: No, sir.

Hon. Mr. ROBINSON: Have you a monopoly of those services?

Mr. THOMPSON: We have those services.

Hon. Mr. MACARTHUR: Is Summerside included in the interurban service between Moncton and Charlottetown?

Mr. THOMPSON: Yes, sir.

Hon. Mr. ROBINSON: Have you the sole rights on that service?

Mr. THOMPSON: At the present time we are the only operator.

Hon. Mr. McRAE: The only Canadian operator.

Hon. Mr. ROBINSON: Another company cannot get a right to operate there?

Mr. THOMPSON: We have the Government licence at the present time for operating and carrying the mails.

Right Hon. Mr. MEIGHEN: No one else can operate a line there?

Mr. THOMPSON: I cannot say as to that, I am not clear about the legislation on the point.

[Mr. G. A. Thompson.]

Hon. Mr. McRAE: I think perhaps the Committee have not the correct view. There is very strong competition between Vancouver and Seattle from the United States air lines.

Mr. THOMPSON: Yes, sir.

Hon. Mr. ROBINSON: Whom do you get this right from?

Mr. THOMPSON: From the Department of Civil Aviation, through Order in Council which was passed last session.

Right Hon. Mr. MEIGHEN: Under what legislation?

Mr. THOMPSON: Under the Air Board Act.

Hon. Mr. GRIESBACH: We had better clear this up while we are at it. Perhaps Mr. Wilson can give us the necessary information as to whether the Government does give an exclusive franchise for operating over a certain route. Is that so in this case?

Mr. WILSON: It is not necessarily exclusive, Mr. Chairman. As one honourable gentleman has pointed out, two licences have been given between Seattle and Vancouver.

Right Hon. Mr. MEIGHEN: Who gives those licences?

Mr. WILSON: Under the Aeronautics Act, sir, the Minister of Transport has power under air regulations to license scheduled air transport services.

Hon. Mr. ROBINSON: Is it not a fact that you have refused to grant another licence between Moncton and Charlottetown?

Mr. WILSON: No. Provided the company which wishes a licence meets certain safety conditions we will issue the licence.

Hon. Mr. ROBINSON: But you have granted them flying privileges to other places.

Mr. WILSON: They can operate provided they meet our regulations.

Hon. Mr. ROBINSON: They are operating between other places, but not between Moncton and Charlottetown.

Mr. WILSON: Quite so.

Hon. Mr. ROBINSON: Why exclude them from the Moncton to Charlottetown route?

Mr. WILSON: They have not so far met the safety requirements of the Government under the licence system.

Hon. Mr. COPP: Why do you allow them to carry on in a dangerous way in one part of the country, and yet forbid them to do so in another part?

Mr. WILSON: No licence has been issued because they have not met our reasonable requirements.

Hon. Mr. COPP: I thought you said you had issued a licence.

Mr. WILSON: No. I said we were willing to issue a licence.

Hon. Mr. ROBINSON: They are licensed to fly between Moncton and Halifax or Saint John.

Mr. WILSON: No. The Minister has informed them that the Department is prepared to issue a licence for these services when they meet our safety requirements.

Hon. Mr. ROBINSON: They are flying there now under licence.

Hon. Mr. MACARTHUR: Mr. Wilson, in what respect are they not fulfilling the requirements? They have new machines.

Mr. WILSON: We are prepared to license their machines, but their ski winter flying equipment does not meet our safety requirements.

Hon. Mr. MACARTHUR: That would not be a serious matter to attend to.

Mr. WILSON: It might be a very serious matter, sir.

Hon. Mr. MACARTHUR: The objection that is generally understood to be made by the Department is that they do not wish to interfere with the already established line. This Canadian Eastern Airways Company has been flying its machines from Halifax to Moncton.

Mr. WILSON: They have not been carrying out any regular scheduled services.

Hon. Mr. MACARTHUR: Are they being penalized?

Mr. WILSON: They can carry on taxi trips irrespective of this service, but they cannot establish regular scheduled services between two cities without having our licence for that purpose.

Hon. Mr. GRIESBACH: Is it the policy of the Government to restrict the number of air lines that may operate in any place in Canada, or will a licence be granted to anybody who complies with the air regulations?

Mr. WILSON: The licence system applies only to interurban or international traffic; it does not apply to northern traffic at present.

Hon. Mr. GRIESBACH: Then take interurban traffic. Is it the policy of the Government to limit the number of licenses it will grant to companies to operate such services?

Mr. WILSON: I do not know that any definite policy has been laid down about that as yet. The position this spring, as we saw it, was that the Government had under consideration the establishment of a trans-Canada service. There were certain signs of existing or new air companies wishing to establish themselves on certain sections of the projected trans-Canada service prior to the introduction of the new legislation, and it was considered advisable to take control of that intercity service before the Government announced their policy in regard to the major lines, and so prevent other companies from establishing rights.

Right Hon. Mr. MEIGHEN: Vested rights.

Mr. WILSON: Yes. The Government policy was announced in the Speech from the Throne. They wished to prevent premature action by outside parties which might interfere with their freedom of action in regard to the major question.

Hon. Mr. MACARTHUR: Mr. Wilson, I want you to understand the situation that obtains in New Brunswick and Prince Edward Island. We have an airport a short distance from Moncton. It can be reached by taxi in a few minutes. The Eastern Canadian Airways for three years have importuned the public to invest in their stock, and with considerable success; a good many people have put their money into the venture. There was no hint from the Government that Eastern Canadian Airways would be precluded from using their new machines which they ordered. We go down to Moncton on the Ocean Limited, and we cannot get to Prince Edward Island unless we fly over, there being no second ferry trips until the summer months. This means we lose a day in Moncton. The old company is very limited in its capacity, and very often its service cannot meet the demand. We need this extra service, but the Government says Eastern Canadian Airways are not to be licensed. They have experienced pilots, and if it is a matter of equipping the plane with a few skids, that could soon be arranged. We want to know what is the real trouble.

The CHAIRMAN: Don't you think we had better return to the subject-matter before the Committee?

Hon. Mr. MACARTHUR: I should like to get an answer.

The CHAIRMAN: There is a department where all the information can be obtained. Mr. Wilson may be able to answer your question tomorrow.

[Mr. J. A. Wilson.]

Hon. Mr. ROBINSON: This Bill deals with air transport, and I am very much interested in this matter of air service between Moncton and Charlottetown. The failure to license Eastern Canadian Airways is a very great mystery.

Hon. Mr. MACARTHUR: Undoubtedly it is.

The CHAIRMAN: I have told you how you can get the so-called "mystery" explained. The information can be secured in fifteen minutes from the department. We want to get ahead with our consideration of this Bill.

Hon. Mr. ROBINSON: The impression down there is that this trans-Canada company has a monopoly, and that another company with just as good planes and pilots cannot get a chance to operate between Moncton and Charlottetown.

Hon. Mr. DANDURAND: The matter does not come under this Bill.

Hon. Mr. MACARTHUR: I think it is very apropos.

Hon. Mr. ROBINSON: I thought it was an opportune time to bring the matter up.

Hon. Mr. MACARTHUR: Mr. Chairman, you have told us to go to the department, but the people concerned have been corresponding with the department for a year or more. Mr. Wilson may be able to tell us what is really behind the department's refusal to grant the necessary license.

The CHAIRMAN: Mr. Wilson was not expecting this discussion. He may be able to tell you tomorrow.

Hon. Mr. ROBINSON: This is about the only opportunity we shall have of getting the information.

The CHAIRMAN: You will have it tomorrow.

Hon. Mr. DANDURAND: I understand from Mr. Wilson that it is a question of general policy. That question cannot be settled in this committee.

Hon. Mr. COPP: It does not seem to be a matter of general policy. Mr. Wilson said the license was refused because the company's planes were not properly equipped.

The CHAIRMAN: He says the machines are not equipped according to the regulations.

Hon. Mr. COPP: I should like to know why the license is not granted.

Hon. Mr. ROBINSON: Can you explain that tomorrow, Mr. Wilson?

Mr. WILSON: The facts are perfectly well understood.

Hon. Mr. ROBINSON: No.

Hon. Mr. MACARTHUR: It is a mystery.

Mr. WILSON: It has been made a mystery. I do not think it is a mystery.

Right Hon. Mr. MEIGHEN: You say the planes are not equipped with proper skids?

Mr. WILSON: That is one thing. Their pilots are not properly qualified.

Hon. Mr. MACARTHUR: Now we are getting something.

The CHAIRMAN: Mr. Wilson will be able to tell you some more about this to-morrow. Mr. Wilson has made a statement on behalf of the department. It is suggested that this company could not get a right to operate because it is not properly equipped with pilots or mechanically. If that is not so you ought to be able to find it out. If it is so the department is quite right.

Now, Mr. Thompson.

Mr. THOMPSON: Mr. Chairman, on behalf of Canadian Airways Ltd. permit me to bring to the attention of your Committee features in the proposed Bill to establish a Board of Transport Commissioners for Canada, which may be applied only with the greatest difficulty to Air Transport and particularly to Air Transport in Northern Canada.

At the risk of informing your Committee of what it already knows I would like to remind you of the importance of air transport to the north and of the dependence placed on air transport by all persons engaged in all northern development. You are probably aware that Air Transport in the north is looked upon as casually as every kind of vehicular traffic is in other parts of Canada. The aggregate air borne traffic in the north is so considerable that in this regard Canada leads all other countries. Comparative statistics show that for 1935 air borne freight and express in Canada was several times as great as in the United States and very much greater than that in other countries. Not only has this traffic steadily increased during the past ten years, but is still increasing more rapidly every year.

Right Hon. Mr. MEIGHEN: Air-borne freight and passenger traffic?

Mr. THOMPSON: Air-borne freight and express, not passenger traffic, sir. As an indication of this volume in 1936 Canadian Airways alone flew a daily average of 5,500 miles and it carried a daily average of 57 passengers, of 21,200 pounds of freight and express and of 2,600 pounds of mail. The significance of these figures may be brought more clearly to you if I say the daily round trip mileage on the route from Montreal to Vancouver, is only 578.

Your Committee will appreciate that this considerable volume of traffic is dependent upon the development of our natural resources, a development of prime importance to our national welfare and one which, as has many times been admitted, would have been impossible without the facilities of Air Transport. Your Committee may be equally aware that this volume of air traffic has been developed solely on the initiative of individuals who have been interested in it and that the service provided for the northern industries has been adequate and regular. It has been organized and developed without Government subsidy. That is a fact of which Canadians can be justly proud, for in no other country has air transportation been so nearly self supporting and for this reason alone I submit that any impending legislation which, instead of helping its future development, may cause it possible embarrassment, deserves your most earnest consideration.

As I wish to draw attention to certain basic differences between air and ground transport and also northern air transport from scheduled interurban airlines, you may wish to be assured that I am qualified to submit these views on behalf of Canadian Airways.

I am General Manager of that system and have been engaged exclusively and actively in commercial air transport since July 1919. I returned then from the war, having been given my wings as a pilot three years previously. This conclude my army service flying with the exception of six months spent in the R.C.A.F. at Camp Borden. My efforts for the last eighteen years have been wholly concerned with every detail of commercial air transport operations.

I trust you will permit me then to point to a fundamental difference between air transport and ground transport. In air transport there is not incurred heavy and often tremendous expenditures for purchase, construction and maintenance of rights of way, or in the construction and upkeep of highways. Nor is air transport limited to operation on steel rails, paved highways, or navigable water. Its highway is the limitless ocean of air. Air transportation has its own characteristic expenditures. These are incurred in providing airports and other ground facilities such as radio, teletype and meteorology, but these costs are limited in comparison with those necessarily incurred for ground transport and they cannot justly be classed in the same category. This comparison holds good when the costs already incurred for the projected trans-Canada Airway are placed alongside the costs incurred for railway right of way and highway construction and maintenance.

[Mr. G. A. Thompson.]

This comparison, however, cannot be established when you turn your attention to northern air transport. The comparison does not exist because no public funds have been expended in developing facilities for northern air transport. Nature has provided us with an abundance of lakes and rivers which are ready made airports. Such expenditures as have been necessary in providing docks, warehouses, offices, living quarters, workshops and radio have been borne entirely by air transport companies. At their own cost they have made possible the northern development that has been officially recognized as a chief factor in the new development of our natural resources in the north.

Herein lies a fundamental distinction between air and ground transport. It is a difference which I hope will lead your Committee to foresee reasons and realize difficulties why certain clauses and parts of the Bill receiving your consideration should not apply to air transport, particularly as it is conducted in the north.

May I now draw to your attention the fact that clause 9, the first clause in that part of the Bill embracing "transport by air" subjects tolls, tariffs, and other details of air transport management wholly to the provisions of the Railway Act. It may be that the present administration does not mean by this that it intends setting up tolls and tariffs and rates. It may only intend to enforce tolls and tariffs as set up by the air transport operators individually or collectively, based on their experience of the difficult and varied circumstances with which they are faced. No such limitation, however, is guaranteed under this Bill. There is nothing in this clause which suggests that the operator is, or the operators jointly are, to be permitted to manage their own affairs and be allowed to set up their own rates. The contrary is the case, for under clause 9 air transport, as conducted in the north, may at any time find tariffs and rates forced on it under the provisions of the Railway Act, to which this Bill now makes air transport subject at any time.

There is, as your Committee can understand, no comparison in this respect possible between air transport in the newer regions and ground transport. There is, too, no comparison in this matter of tariffs and rates between air transport "in the bush" and air transport along scheduled interurban airlines. The more correct simile is between the tramp cargo steamer and air transport in the north. Each by its very nature is irregular, in that the master of the steamer or the pilot of the aircraft when discharging his cargo may have to look for his next cargo where he may find it. This cargo may take him back to his home port or still further away. Having found this cargo, the pilot has often, on his own initiative and to the best of his ability, to arrange terms for its transportation. Under this and innumerable other cases which are the every day experience of northern air transportation, to subject it to provisions of the Railway Act appears unjustified and impractical.

I am heartily in accord with the evident aims of the Department of Transport to place Canadian aviation on a sounder basis, but I see great difficulty, I might say insuperable difficulty, in the Department attempting to make air transportation subject to the Railway Act, particularly in the regulation of rates for air transport north of steel. Furthermore, may I respectfully state that I can see very little, if any, justification for it. It has been stated, as for one reason, that it places an unfair burden on the railroads if their operations are subject to control and competing forms of transport are left to their own devices. Whereas this may be true of other forms of transport, it is not so with northern air transportation. In 1935 there was air borne in the north twenty-five million pounds, or twelve thousand, five hundred tons, of freight and express. Prior to this being air borne it was almost entirely hauled by the railroads to the bases of the air transport operators. If it had not been for aviation making possible development of our natural resources, this considerable tonnage would not have been available to the railroads. Surely this is not competition which requires regulating to protect the railroads?

To a greater extent than any other form of transportation, Canadian Airways' experience shows that air transportation is in a constant state of change, due to continuous improvement in equipment, and the fact that various types are required for different types of traffic, often in the same district. The pay load for the same type of equipment varies with the distance from the fuelling base to be flown. The cost varies with the cost of fuel (24 cents per gallon to as high as \$1.96½ per gallon at King William Land Post), intensity of operation, hours of daylight available (you cannot fly as many hours per day in winter), type of service required and nature of goods to be carried.

The volume of air borne traffic has increased very rapidly during the past five years and a point has now been reached at which an entirely new field of business is opening up to air transport. During the next few years, subject to overloading, all possible freedom should be allowed in the matter of quotations, so as to enable air transport operators to enter this field of large volume freighting and thereby reduce the average cost of air transport.

Some mining companies operate their own fleet of aircraft for servicing their properties and for prospecting purposes, feeling they can provide their own air transportation cheaper than it can be purchased from the commercial operator. It is quite conceivable that the application of the Railway Act and the regulation of tariffs may have a tendency to raise the cost of air transportation to the public and encourage more mining companies to operate their own aircraft, thereby lessening the volume of work available to the commercial operator. It is even conceivable that this tendency might reach alarming proportions, creating a vicious circle of diminishing volume and increased costs to the operator, the costs being directly in proportion to the volume of traffic. It seems to me, Mr. Chairman, there would be grave difficulties in applying the Railway Act insofar as it concerns the private operator who only flies his own traffic but is in reality a commercial operator in direct competition with recognized commercial air transport. I think your Committee will agree it would be inequitable to apply the Act to one and not the other.

This contention does not deny the advantage, the serious need of enforcing existing regulations as set up in the Air Board Act of 1920, but it does insist that the varied exigencies of air transport in the north require that the operators,—individually and collectively—be given the right to set up their own rates, and that Clause 9 be deleted or that it be amended clearly to prevent air transport, north of steel, ever being forced to have its tariffs and rates arbitrarily fixed under the provisions of the Railway Act.

The CHAIRMAN: Do you not think an Act bringing about results the same as those brought about with respect to railways by the Railway Act might be of some use? You do not have to tie up tight to the details of the Railway Act. This Bill is based on the Railway Act.

Mr. THOMPSON: Yes. That is quite true.

The CHAIRMAN: Could not an Act be designed that would be of some use to the operators, owners and the commercial public?

Mr. THOMPSON: Yes, sir, I agree with you, and if I may be permitted I will lead up to that.

The CHAIRMAN: Go on.

Mr. THOMPSON: In Clause 10, paragraph 4, it is stipulated that "The Minister may in the licence (to operate) prescribe the route or routes which the aircraft named therein may follow and the schedules of services which shall be maintained." Every aircraft operating in the north has at some time or another, if not all the time, to deviate so greatly from any prescribed route that its course of operations cannot be defined as along any one or other route.

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Traffic north of the railroads is almost entirely dependent on mining development, the districts of heavy traffic varying from year to year. It is conceivable that an operator might be licensed in a certain district which has a very sudden and great increase in volume of traffic due to new finds of prospectors. It is also conceivable that this activity might cease just as quickly, due to the properties not proving up under development. You can, therefore, readily see that it would not be economical for the operator to suddenly increase his fleet to take care of increased volume. On account of these conditions it is essential that operators be free to move their equipment to the scene of greatest activity.

The passage of Paragraph 4 in Clause 10 would be a constant aggravation which might, if entrusted to unduly rigid interpretation, harass an operator whose machines must fly where their services are required and where their loads, expected and unexpected, may await them.

In paragraph 4 of Clause 11 of the Bill under your Committee's consideration, is a further reference to the Railway Act as an over-ruling enactment for air transport. This paragraph makes an air transport licensee liable to suspension or to cancellation of his licence if convicted of an offence under the Railway Act. May I draw to your attention that under the Air Board Act of 1920 and its amendments, fit and proper regulations are laid down for the supervision of air transport. If an offence be committed by a licensee against any of these regulations, the Department of Transport has the power to discipline the offender and is empowered to cancel or suspend the licence of the offender. This Air Board Act was specifically drawn up to administer and regulate civil air operations, both private and commercial and was drawn up by an International convention of air experts, to which Convention Canada gave its consent. The Air Board Act gives the Department the necessary authority to convict and discipline offenders and I respectfully submit that your Committee consider striking out of this paragraph 4, Clause 11, the words "or under the Railway Act" as being unnecessary and impractical as applied to air transportation, when appropriate regulations are already in force.

In reading over the Railway Act, many clauses appear which, if applied to air transport, would definitely create undue burdens on the operators, others which could not be applied in their present form, and still others which could only be applied with considerable difficulty and with your indulgence I will draw to your attention a few of such clauses.

The first clause which I am going to call to your attention does not specifically apply to tolls and tariffs. It does, however, deal with a matter of labour conditions; and, as you all know, labour conditions have a very great effect on costs.

Mr. O'CONNOR: Mr. Chairman, will you permit me to say to Mr. Thompson that the provisions of the Railway Act, respecting any form of transportation, apply only *mutatis mutandis*, that is, varied as the different circumstances of different cases may require.

Mr. THOMPSON: There are contentious clauses in the the Railway Act, and I am afraid that as applied to air transportation they will lead to a great deal of misunderstanding.

Page 110, Section i, j and k: permits the Board to designate the number of men to be employed upon trains, to limit the hours of duty and to provide specific kinds of fuel. These restrictions should be specifically the duty of qualified officials of the Department of Civil Aviation. Hours of labour in northern air transportation are difficult to regulate commensurate with other lines of endeavour. Northern air transport is entirely dependent on weather conditions and for days on end a machine may not fly; consequently there is

no work for the crews. Full use has to be made of daylight hours in fine weather. Specific kinds of fuel to be used is usually decided by the engine manufacturer who will not stand behind his product when fuels used are not sanctioned by his engineers.

Page 120, Section 316: prohibits pooling of revenue. This would make it impossible for air companies operating in Canada to become parties to the American Railway Express agreement, which necessitates the pooling of revenue of several lines and its subsequent apportionment by the express company.

It has also become common practice for air transport companies, in agreement with ground transport companies, to quote a composite ground and air rate. This is not only advantageous to the transport companies but a convenience to the customer who then only has to make an agreement with one company rather than two.

Page 122, Section 317: paragraph 3, gives the Board power, in cases of discrimination, to order specific works tolls and provisions of service where representation may be made by some body or community with this end in view. Adequate protection against operating loss does not appear to be provided in this section, and surely the Bill before your Committee does not intend forcing losing operations upon a new industry.

Page 123, Section 322: provides that the carrier must adhere to the system of classification prescribed by the Board. This classification has already been laid down, designed solely for railway purposes and is inapplicable to air operations. Classification would cause unnecessary complication of tariffs if applied to air transportation and would require an entirely new system of classification.

Page 126, Section 327: specifies the smallest unit of freight shall be five pounds; any fraction under being waived by the carrier. This should be reduced to one pound in the case of aircraft and, owing to pay load restriction, should provide that all fractions of a pound shall be considered as the next highest pound figure, with a minimum charge per package.

Page 126, Section 329: refers to mileage tolls. Does this refer to rates per pound mile? If so, rates per pound mile as applied to ground transport would not be satisfactory in air transport on account of the great variation in pay load available over different distances. A rate of 90 cents per ton mile might be satisfactory on a haul of 40 miles; whereas a rate of 1.25 per ton mile might show a heavy loss over a distance of 250 miles, due to reduced pay load over the longer distance.

Page 127, Section 330: states no tolls shall go into effect without approval of the Board and Section 331 states special freight tariffs shall be published. If these conditions are intended to apply on special contract work where a carrier undertakes to transport large volumes at rates lower than the normal tariff, undue delay and hardship to the carrier, as well as to the customer, may ensue.

Page 135, Paragraph 2: empowers the Board to enforce the issue of commutation tickets or set rates and terms as it sees fit. With the limited space available on aircraft, this could very easily cause considerable loss of revenue to the carrier.

Finally, Mr. Chairman, may I impress on you and your Committee, that Canadian Airways are most sympathetic to the aims of the Department of Transport in enforcing regulations governing Air Transportation, and are extremely gratified at the vigour with which the present administration, since it took over the Department of Civil Aviation last November, has been enforcing existing regulations. We are now, however, favourably disposed to the application of the Railway Act to Air Transportation, particularly in respect to

[Mr. G. A. Thompson.]

regulation of rates and tariffs. We feel its application would present great difficulty, that it is not suited to air transportation, having been drawn up without due consideration for this new form of transport, and that the same ends can be attained by a rigid enforcement of existing air regulations as laid down in the Air Board Act.

Right Hon. Mr. MEIGHEN: You did not discuss the application of the Act in respect of regular interurban service?

Mr. THOMPSON: So far as interurban service is concerned, such as the Trans-Canada Airway, I can see no great difficulties under the Railway Act, and I think whoever may be operating that service would not find any embarrassment. I do maintain very strongly, though, that it will be a mistake to attempt to force the Railway Act onto northern air transportation. I feel that if the Air Board Act is not satisfactory in its present state it could very easily be amended to take care of northern air transportation. If the present Bill is passed, I think some exceptions should be made in the wording so that it will not apply to northern air transportation.

Right Hon. Mr. MEIGHEN: Do you think it is necessary for interurban transportation?

Mr. THOMPSON: I do not think it is necessary, by any means. I think the Air Board can regulate that.

Hon. Mr. DANDURAND: What territory do you cover in your operations?

Mr. THOMPSON: We operate in northern Quebec and the Northwest Territories. We are not operating in British Columbia or Labrador, though we occasionally go there on special work; we have no regular service there.

Hon. Mr. DANDURAND: How many companies are operating in the north regularly?

Mr. THOMPSON: That is a difficult thing to say.

Right Hon. Mr. MEIGHEN: You say you operate in Quebec and the Northwest Territories?

Mr. THOMPSON: From Quebec to the Northwest Territories. We operate in Quebec, Ontario, Manitoba, Saskatchewan and the Northwest Territories. There are four or five major companies operating in northern Canada.

Hon. Mr. DANDURAND: That is what I wanted to know. I think the minister said he did not intend to interfere with the traffic north of the steel.

Mr. THOMPSON: I understand that, Mr. Chairman, but there is nothing to that effect in the Act. And we do not know just how a new administration might look upon the thing. I have no fears of the present administration.

Hon. Mr. GRIESBACH: What company is operating in the Bear Lake?

Mr. THOMPSON: The Eldorado Mines have their own aircraft, which are operated by the Mackenzie Air Service.

Hon. Mr. MACARTHUR: You have a branch in the Maritimes?

Mr. THOMPSON: Yes, sir.

Hon. Mr. MACARTHUR: You did not mention that.

Mr. THOMPSON: I was trying to stress the importance of this Bill, sir, solely with regard to northern transportation.

Hon. Mr. MACARTHUR: You are not interested in the Maritimes?

Mr. THOMPSON: As I stated just now, sir, I do not think there will be much difficulty in having this Bill apply to interurban traffic, and that is the only type of traffic that is now in existence in the Maritimes.

The CHAIRMAN: Of course in a new enterprise, under new conditions, there will have to be some elasticity. But do you not think the time will soon arrive when you will have to be subject to labour unions, as to hours and so on? Or will that never come?

Hon. Mr. McRAE: That will never come in air traffic.

Mr. THOMPSON: I do not think so, sir, in northern Canada.

Hon. Mr. MACARTHUR: No.

The CHAIRMAN: Are there any questions? If not, I will now call upon Mr. Mayor.

Mr. JAMES MAYOR, President of the Canadian Industrial Traffic League: Mr. Chairman, I have with me as well my Vice President, Mr. Laferle, the Past President, Mr. F. W. Dean, and the Chairman of our Inland Waterways Committee, Mr. Tuttle.

The CHAIRMAN: Do you want them all to speak, or is it just moral support you want?

Mr. MAYOR: Just moral support.

Hon. Mr. DANDURAND: Are you discussing the question of air traffic?

Mr. MAYOR: We are discussing the Bill, sir.

Hon. Mr. DANDURAND: The whole of the Bill?

Mr. THOMPSON: Yes, sir.

In appearing before you we are representing the Canadian Industrial Traffic League, which comprises an association of traffic managers from industrial and commercial organizations throughout Canada from coast to coast, we feel we can speak generally with a great deal of inside knowledge on all matters connected with the practical movement of merchandise.

Permit us to say first of all we are not opposed to regulation or control of rates, tolls, etc., for we believe that, provided the exercises of such functions is on a fair and reasonable basis, they will be an aid rather than a hindrance to commerce and industry.

The resolution passed at our recent annual meeting will testify to our general attitude on the above matter, and we consider judicious and reasonable control or regulation to be fair, just and equitable to all concerned.

We are, however, greatly alarmed over some of the provisions of the proposed Bill which has evidently been drawn up by some person or persons totally unfamiliar with the practical side of the control or regulation of rates, or else it is an attempt to secure by ambiguous language control in the interest of one form of transportation facilities to the detriment of others.

The Bill which is now before your honourable Committee has been drawn up in such an ambiguous or loose manner that it purports to mean other than what the Minister of Transport, as stated by the press, claimed that it was intended to cover.

Our Executive Committee have been endeavouring to arrive at its meaning and to understand same. We have also endeavoured to see whether or not it could be made to fit in with the varied form of transportation conditions represented by the different industries comprised in our League, but we regret to have to say that it seems to be a hopeless task because of the ambiguous and loose manner of the legal phraseology employed to describe the measure of control proposed to be employed to regulate the practical operation of the movement of traffic in so far as rates, tolls and charges are concerned.

We have, therefore, come to the following conclusion: Explanatory notes, section (i) seeks to exercise control of an inter-provincial movement beyond the jurisdiction of the carrier moving over the inter-provincial portion of the route which would contravene provincial rights and is, therefore, unpractical; and consequently all references to movement beyond the actual inter-provincial one should be eliminated.

The CHAIRMAN: Do you not think the Bill would be practicable if an agreement were arrived at between the Provinces and the Dominion? I think the Minister probably had the possibility of such an agreement in his mind.

[Mr. James Mayor.]

Mr. MAYOR: Yes, I should think that would be all right. But the Bill, as it is drawn now, refers only to interprovincial traffic, yet it seeks to control beyond the actual stopping place of interprovincial movement, because it says a movement may be on a through bill of lading or on more than one bill of lading. For instance, suppose a carrier was carrying merchandise between, we will say, Montreal and Owen Sound, Ontario. There would be a through movement from Montreal to Toronto, but it would have to go over another line to Owen Sound, and yet, according to the phraseology used in the section, it is sought to control the entire movement from Montreal to Owen Sound.

Part Two, dealing with transport by water has been drawn up so loosely that it would apply to all movements by water whether inland, coastwise or intercoastal.

The Minister of Transport is reported in the press to have stated to your Committee in making his explanation of the Bill that it did not apply to coastwise traffic or to inland traffic by water from Montreal. If the latter is not to be regulated why attempt to regulate traffic from Montreal to intermediate ports, or from intermediate ports to lake head?

The Montreal movement should either be regulated or all inland lake movements left open and unregulated. Our organization is strongly in favour of the regulation of package freight on the inland lake movement from Montreal to lake head, and also all intermediate movements.

Hon. Mr. DANDURAND: That is what the Minister said. It did not mean that this or any other Government would not extend the regulation beyond traffic on the Great Lakes down to Montreal, but at the present time that is his intention.

Mr. MAYOR: Well, that may be his intention, but the way the Bill is drawn up it reads entirely different.

Right Hon. Mr. MEIGHEN: I have not got your intention yet. I have the Bill's intention pretty clearly in my mind. Do you say if you do not regulate the coastal traffic at the extremities there is no use regulating the lake traffic in between?

Mr. MAYOR: No, sir, I did not say so. As I understand the report in the paper, it said the regulation was not to apply from Montreal to the Great Lakes.

Hon. Mr. DANDURAND: That is the reverse of what is intended.

Right Hon. Mr. MEIGHEN: What the Minister said was, while the Bill on his instructions did give power to regulate both the coastal traffic on the two oceans and between, it was not his intention to apply it to those territories. It is not a matter of drafting the Act but of the policy of the Minister. That is all. But I got the wrong meaning from what you read. I thought later you said you were in favour of interlake traffic being regulated.

Mr. MAYOR: Yes, if one portion of the inland lake traffic is regulated, the other should be.

Right Hon. Mr. MEIGHEN: That is, if package is regulated the other should be.

Mr. MAYOR: No, I am not saying that. If the regulation is fair and reasonable, yes, but it depends on how it is done.

The Bill also in its present form indicates the possibility of a discrimination against Canadian vessels operating from Canadian to foreign ports in favour or foreign vessels who are left unregulated.

It also provides for the application of the provisions of the Railway Act, as referred to in section 4, but does not state what sections are to be made applicable, therefore this clause should be more clearly defined by making reference to such sections of the Railway Act as can be made applicable to the water movement of traffic.

Part 3. In regard to Part 3, we are not opposed to this with the provision that the references to the Railway Act should be similarly defined as to what portions are to be applicable to aircraft movement.

Part 4. In reference to Part 4 of the Act, while we are in favour of the control of rates by transport and have for years been endeavouring to secure provincial control, we are opposed to the Federal authorities endeavouring to exercise control beyond that of the interprovincial movement.

As the language used in this portion of the Bill is so utterly ambiguous as now written, we suggest that this part be withdrawn in its entirety as it is a clear contravention of private and provincial rights.

Part 5. We have no objection to this.

Part 6. In regard to Part 6, if passed in its present form we fear that if a Board of Transport appointed in the future were railroad-minded that in the administration of the portion all other forms of transport could be legitimately strangled in favour of the railroads, and private rights in being able to meet foreign competition entirely set aside. We are therefore decidedly opposed to the adoption of same as its provisions contravene the principles of the Railway Act.

By the way, Mr. Chairman, the other day I understood evidence was submitted in regard to this particular portion, which said that it was working satisfactorily in Great Britain. I have here, sir, a number of excerpts from British publications and I will read them:—

Traders have for many years taken road transport for granted, and have perhaps not realized quite how valuable it has been in the development of their business. The threat of railway monopoly brought before the public for the first time by the railway attitude to license renewals on long-distance services has awakened them, and the chamber of commerce meetings all over the country have shown that they now realize that the further restriction of road transport would prove to be nothing short of a calamity for them.

HON. MR. PARENT: What are you reading from?

MR. MAYOR: From the issue of Motor Transport of November 21, 1936.

HON. MR. GRIESEBACH: Where is this published?

MR. MAYOR: In England.

Another issue of the same periodical, dated December 26, 1936, under the heading "The Trader and 'Public Interest'" has the following:—

If any one particular interest is responsible for this atmosphere it is the railway companies, who have all along set the pace in the traffic courts about the paramount importance of the railways and traffic which "belongs to them." The road haulier, on the other hand, bases his application on the requirements of his customers, and the whole case for road transport ever since the licensing system commenced has been on the need of industry.

But it is not the cause of the trouble due to those words "public interest" and the double meaning which has been given to them?

And this is another excerpt:—

Transport is the servant of industry and cannot become its master without dire consequences.

HON. MR. PARENT: Does that come from a dictionary?

MR. MAYOR: No.

[Mr. James Mayor.]

Then Motor Transport, in its issue of January 2, 1937, contains a resolution passed by the Liverpool Chamber of Commerce. I am not going to take the time of the Committee to read the whole resolution, I will give just this one paragraph:—

The Transport Committee of the Liverpool Chamber of Commerce has recommended the Council to support the resolution submitted by the Coventry Chamber of Commerce, urging the Minister of Transport to bring in legislation to amend the Road and Rail Traffic Act, 1933, having regard to the probable effect on trade and industry of such legislation.

In its issue of January 16, 1937, Motor Transport contains an article on the automatic renewal of licences, from which I quote the following:

That the acquisition by the railways of traffic at "Agreed Rates," under the powers of the Act, is enabling the railways, at least temporarily, to acquire traffic at rates which may be uneconomic and which in effect undermine and further restrict road transport competition, the reaction to which may be a considerable increase in rates when a sufficient percentage of competition has been removed, thus not only adversely affecting road transport by substantially reducing its operating power, but leaving industry open to irreparable injury from increased rates.

That in view of the matters traversed in the preamble of this resolution and of the almost national dissatisfaction with the effects of many of the provisions of the Road and Rail Traffic Act, 1933, the Willesden Chamber of Commerce urges the Government immediately to appoint a committee to examine the workings and operations of the Act, and to collect evidence from all interested parties with a view to the introduction of an amending Act without delay, and to this end invites the support of all Chambers of Commerce, Chambers of Trade, and other interested organizations.

Similar resolutions, sir, were passed by the Southampton Chamber of Commerce and the Birmingham Chamber of Commerce.

At page 30 of the second day's proceedings I find the following statement:—

I do not think we have any standard rate in the Dominion of Canada on which to base such reductions. In Great Britain there is a standard rate, on a mileage basis, for the various classes of traffic.

Hon. Mr. DANDURAND: Who made that statement?

Mr. MAYOR: Mr. Allen. I want to call attention, sir, to section 328 of the Railway Act, which reads as follows:—

The tariffs of tolls which the company shall be authorized to issue under this Act for the carriage of goods between points on the railway shall be divided into three classes,

- (a) the standard freight tariff;
- (b) special freight tariffs; and
- (c) competitive tariffs.

Then section 329:—

The standard freight tariff or tariffs, where the company is allowed by the Board more than one standard freight tariff, shall specify the maximum mileage tolls to be charged for each class of the freight classification for all distances covered by the company's railway.

Then it goes on to detail the manner in which those mileage rates shall be computed, and this is subsection 3:—

The special freight tariffs shall specify the toll or tolls, lower than in the standard freight tariff, to be charged by the company for any particular commodity or commodities, or for each or any class or classes of the freight classification, or to or from a certain point or points on the railway; and greater tolls shall not be charged for a shorter than for a longer distance over the same line in the same direction, if such shorter distance is included in the longer.

Then subsection 4:—

The competitive tariffs shall specify the toll or tolls lower than in the standard freight tariff, to be charged by the company for any class or classes of the freight classification, or for any commodity or commodities, to or from any specified point or points which the Board may deem or have declared to be competitive points not subject to the long and short haul clause under the provisions of this Act.

With those clauses, sir, we contend the transportation companies, subject to the Act, have all the power that they need at the present time without any addition of the section of the Bill dealing with agreed charges.

Part 7. We see great objection to this part of the Act, particularly in the case of shippers who have properly organized traffic departments to handle all their traffic matters being compelled to employ such licensed brokers in arranging the transport of their goods, thus adding additional burdens on industry.

That might be a subsequent move that could be made.

There are at present in operation from various points pool cars, collected, shipped and distributed by pool car operators. These operators are performing a special service of value to shippers making for more economical handling of goods to both shippers and the transporting companies themselves, which is very desirable. We fear that the licensing of these concerns may result in the discontinuance of this practice, which would only result in higher charges to shippers and more expense to transport operators.

These pool car operators look after the collection, loading of cars and distribution, thus relieving the transporting companies of this expense, and there is only one shipping and way-bill to be made out, with the result that book-keeping operations are confined to one entry as against twenty or more if shipped on an L.C.L. basis, thus providing economy all round.

Part 8. In regard to section 8, we request that a grandfather clause be added to this part specifically providing that all operators operating services at the time of the going-into-force of this Act shall receive a licence without the necessity of securing a certificate of public necessity and convenience.

For the aforementioned reasons, which we believe to be fair and reasonable, and in the interest of trade and industry, as well as being in the best interests of transports of all kinds, we submit that the Bill in its present form should be withdrawn, and a more suitable one substituted which will be designed to aid commerce, industry and transportation generally.

In making this suggestion we submit that this is too serious a matter to the commerce and industry of our country, as well as the various transportation interests, to have same hurried.

The aforementioned references to the various parts which we have made we believe are sufficient to indicate the possible far-reaching character of the proposed measure. When placed upon the statute books it will be there for years and, therefore, must be a workable measure, which from the very cursory survey we have been able to make would indicate to us that it would be impracticable from a business viewpoint.

[Mr. James Mayor.]

It is not believed that the Minister of Transport would desire to have something placed upon the statute books that would continually be subject to change because of his ascertaining the impossibility of policing and enforcing the measures.

We submit that the measure cannot be adopted in its present form, and that, before a new draft is made, the shippers and receivers of freight should have an opportunity of considering same and making such suggestions as may be desirable in order to have a workable measure introduced into Parliament.

In view of the above, we respectfully submit that the entire Bill be laid over for one year, and that in the interval the Minister of Transport be requested to consult with those representatives of commerce and industry that will be able to aid him in placing upon the statute books some constructive legislation that will benefit all concerned.

This will give us an opportunity to consult with the members of our League who are spread from Halifax to Vancouver and receive the benefit of their advice and experience which we can then transmit to the Minister of Transport, and we feel that in the end this course will be for the general advantage of Canada.

All of which is most respectfully submitted.

Hon. Mr. ROBINSON: I understand that you represent the Transport League.

Mr. MAYOR: I represent the Industrial Traffic Managers connected with the various business interests, industries, and commercial houses stretched throughout Canada from Halifax to Vancouver.

Right Hon. Mr. MEIGHEN: The users of traffic.

Mr. MAYOR: Users of traffic.

Hon. Mr. ROBINSON: It is not a motor organization?

Mr. MAYOR: No, sir.

Hon. Mr. DANDURAND: How long have you been in existence?

Mr. MAYOR: Since 1915. We celebrated our twenty-first anniversary last month.

Hon. Mr. DANDURAND: If the Committee desires to recommend postponement until next year, we may ask you to prepare a bill.

Mr. MAYOR: Well, there may be some of our members who are sufficiently qualified to do that, but I am not one of them. We can give the practical side; we are not so much worried about the legal side.

Hon. Mr. ROBINSON: You make it clear that you represent the shippers?

Mr. MAYOR: Yes, sir, shippers and receivers of freight.

Hon. Mr. ROBINSON: Not the motor carriers?

Mr. MAYOR: No, sir.

Hon. Mr. PARENT: What is the difference between you and a general broker?

Mr. MAYOR: A broker is a man who goes out and, as I understand it, endeavours to secure and ship freight, thereby securing a commission. We are engaged in connection with the various manufacturing industries through the country. We are part and parcel of that industry.

Hon. Mr. ROBINSON: You are not a branch of the Canadian Manufacturers' Association?

Mr. MAYOR: No, we are separate entirely.

Right Hon. Mr. MEIGHEN: They are the traffic men employed by industries using transport all over the country, and are organized as a traffic association.

Hon. Mr. GILLIS: Transport of every nature?

Mr. MAYOR: Yes, sir.

Hon. Mr. MACARTHUR: You referred to a shipment from Montreal to Owen Sound. Was that L.C.L. or what?

Mr. MAYOR: I was referring to a shipment by truck.

Hon. Mr. MACARTHUR: Has not the consignor some right to say how it should be routed from Toronto to destination?

Mr. MAYOR: Absolutely.

Hon. Mr. MACARTHUR: Would this Act not permit that?

Mr. MAYOR: This Act would place the section of the movement from Toronto to Owen Sound under the federal control. It is now under the provincial authority. We claim the wording of the Act takes that movement entirely away from the provincial authority and places in under federal authority, and requires the operator to take out a licence for interprovincial movement although he does not carry on that business at all.

Hon. Mr. MACARTHUR: The consignor has nothing to say?

Mr. MAYOR: No.

Hon. Mr. MACARTHUR: Is that a new departure?

Mr. MAYOR: They give it to an interprovincial carrier to carry it to its destination. He may issue it on a through bill, or may simply take his local bill to Toronto and then hand it over to whatever company is going to Owen Sound. But under the wording of the Act at present, even the movement from Toronto to Owen Sound is under the authority of the federal control.

Hon. Mr. MACARTHUR: And you object to that?

Mr. MAYOR: Certainly.

Hon. Mr. MACARTHUR: And it is a new regulation.

Mr. MAYOR: Entirely new.

Hon. Mr. COPP: That is to say, if you send a shipment of goods from Montreal to Owen Sound, you take the Canadian National Railways and they can only take it to Toronto—

Mr. MAYOR: I am talking about truck transport entirely. I instanced that when I was referring to the part of the Act dealing with the movement of traffic by trucks.

Hon. Mr. MACARTHUR: With the railway it is a different situation. You can get a through bill of lading to Owen Sound from Montreal, and the consignor can route it.

Mr. MAYOR: Yes, sir.

The CHAIRMAN: Thank you.

Now, is there some person else?

Mr. VARCOE: Senator Dandurand has asked me to express a legal opinion on the question of whether this Bill will interfere with the operation of the treaty which was entered into in 1931, known as the British Commonwealth Merchant Shipping Agreement. Part IV of that agreement reads as follows:—

Equal treatment: Article 10—Each part of the British Commonwealth agrees to grant access to its ports to all ships registered in the British Commonwealth on equal terms and undertakes that no laws or regulations relating to sea-going ships at any time in force in that part shall apply more favourably to ships registered in that part, or to the ships of any foreign country, than they apply to any ship registered in any other part of the Commonwealth.

[Mr. F. P. Varcoe.]

Article 11—While each part of the British Commonwealth may regulate its own coasting trade, it is agreed that any laws or regulations from time to time in force for that purpose shall treat all ships registered in the British Commonwealth in exactly the same manner as ships registered in that part, and not less favourably in any respect than ships of any foreign country.

Now, I take it that the controlling words are, in the first article, "on equal terms," and in the second article, "and not less favourably." These clauses indicate that the intention of the treaty was to protect the ships of other parts of the Commonwealth from discrimination. The Bill now before the Committee does not discriminate against any vessels of any register, and my opinion is that this Bill would not constitute a breach of this agreement.

Right Hon. Mr. MEIGHEN: While the Bill does not discriminate, it authorizes discrimination.

Mr. VARCOE: It authorizes, sir, the refusal of a licence.

Right Hon. Mr. MEIGHEN: Surely.

Mr. VARCOE: But upon terms, I submit, that would apply equally to Canadian vessels.

Right Hon. Mr. MEIGHEN: No, no. The Minister could say with respect to the service between Fort William and Montreal, "There are enough ships of our own, and we will not grant any more licences to our own or to ships of British register."

Mr. VARCOE: I take it, sir, that is a proper regulation of the coasting trade, which is contemplated by article 11; and as long as the treatment is equal—

Right Hon. Mr. MEIGHEN: It would not be equal at all. Here are a number of Canadian ships running from Fort William to Montreal. He might say "That is enough."

Mr. VARCOE: I would say that he would have to deal with each application as it came up, and the Minister would have no power under this Bill, I should say, to say "I will not grant licences to British-registered ships or Australian-registered ships."

Right Hon. Mr. MEIGHEN: He is not foolish enough to say that. But here is a ship of British register which has all the qualifications of the Canadian ships that are there, and ready to give as good service, but he says, "We do not need you. We already have enough service." Do you say that is not a breach of the treaty?

Mr. VARCOE: No, sir, not a breach of the treaty.

Right Hon. Mr. MEIGHEN: The treaty amounts to nothing, then.

Mr. VARCOE: The treaty provides expressly that the regulation of the coasting trade may be undertaken by Canada.

Right Hon. Mr. MEIGHEN: Of course we control the coasting trade, but we have to control it in such a way as to treat all alike. But if we can say that we will admit a Canadian ship and exclude a British ship, on the ground that we have enough, we can repeal the treaty.

Mr. VARCOE: If that construction were true, sir, I would submit that then by this treaty we have given to British and Australian ships something that is not possessed by Canadian ships, that is the right to operate in Canadian waters free of any local control.

Right Hon. Mr. MEIGHEN: Oh, they have got to operate under the same regulations as our own ships, under the same local control. But when you pass a Bill which empowers the Minister to say when there are enough ships and when there are not enough, and to select those that are to come in when there are not enough, you are repealing the treaty.

Mr. VARCOE: If he undertakes to do that, upon the basis that he will admit Canadian ships and not Australian ships, for instance, he will not be carrying out the terms of the statute.

Right Hon. Mr. MEIGHEN: All he has to say is that there are enough ships already.

Mr. VARCOE: If the Board of Transport Commissioners is asked to determine whether the public necessity requires another ship, they are to determine that without reference to whether the ship is an Australian ship or any other kind of ship; they determine that upon local conditions.

Hon. Mr. COTE: Do you not include prohibition of trade in that kind of control contemplated by the treaty?

Mr. VARCOE: Surely Parliament has not deprived itself of the power to say whether more ships are needed on lake Ontario.

Right Hon. Mr. MEIGHEN: If all ships are admissible to our ports on a basis of equality, then they have to be allowed to come so long as they comply with our regulations.

Mr. VARCOE: I submit that it would be a strange thing if Parliament tied its hands with regard to the coastal trade of Canada, and was not able to say how many ships can operate in lake Ontario; and that is what it would amount to if all British ships could come in.

Hon. Mr. DANDURAND: And they might oust our own Canadian ships.

Mr. VARCOE: We can require Canadian ships to be licensed, but not Australian ships?

Right Hon. Mr. MEIGHEN: We can require them to be licensed for coastal traffic, of course, but we have to apply the same terms in the licence to them as to our own ships.

Mr. VARCOE: I should think that under this statute the Board of Railway Commissioners has power to say whether or not there are sufficient ships in that service. Then the Minister has power to say whether a certain ship is qualified to undertake that service.

Right Hon. Mr. MEIGHEN: Then you have power to repeal the treaty.

Hon. Mr. DANDURAND: I would ask Mr. O'Connor to give us his view on this point.

Mr. O'CONNOR: I agree fully with what my friend has said.

The CHAIRMAN: Who is your friend in this case?

Mr. O'CONNOR: My friend is Mr. Varcoe, representing the Department of Justice. Sometimes I have disagreed with him. But on this occasion I am heartily in accord with what Mr. Varcoe says. This is how it appears to me. Admittedly this clause in the treaty is a clause against discrimination. Now, what does that mean? It means that you shall treat the treaty ship—you will know what I mean by that expression—as you treat your own ship. Now, are you treating the treaty ship in the same way as you are treating your own? That turns upon the words of this Bill, as written. It was urged that the words as written in the Bill constitute an infraction of the treaty. Of course that is not so, until some case arises under the treaty.

[Mr. F. P. Varcoe.]

Right Hon. Mr. MEIGHEN: Do you say that under the terms of that Bill the Minister could not break the treaty?

Mr. O'CONNOR: You mean a Minister wishing to violate the treaty—

Right Hon. Mr. MEIGHEN: Whether he wished to do it or not, he could do it. And if you pass a statute giving a man power to break a treaty, are you not in that way breaking that treaty?

Mr. O'CONNOR: No. Mr. Varcoe was asked if the Minister would not be able to say there were enough ships here. Well, suppose he did say that, and there were enough ships here, he would then be excluding Canadian ships. If he was not excluding Canadian ships you would have clear proof against him that he was violating the treaty.

Right Hon. Mr. MEIGHEN: He could say one day, "There are not enough ships now, so I will admit a Canadian." And next day he could say, "There are too many, so I will shut out a British ship."

Mr. O'CONNOR: If he was acting honestly he would be following a consistent course both days, for he would be applying the treaty and the statute according to their terms. If, however, he in fact favoured Canadian ships, then he would unquestionably, as a matter of fact, and not as a matter of construction of a treaty, be maladministering his office.

Right Hon. Mr. MEIGHEN: But he is authorized to favour Canadian ships.

Mr. O'CONNOR: Certain words are written into that Bill, and the question is whether they infringe the terms of the treaty. There is nothing in the Bill which infringes the treaty.

Right Hon. Mr. MEIGHEN: It authorizes the minister to infringe the treaty.

Mr. O'CONNOR: It is suggested that some corrupt minister at a later stage may by his action infringe the treaty.

Right Hon. Mr. MEIGHEN: Not corrupt at all.

Mr. O'CONNOR: Well, incompetent, indirect, or any other adjective that may be applied to him. If he infringes the treaty he does so as an individual in the administration of his office. But the words of the Bill do not infringe the treaty.

Right Hon. Mr. MEIGHEN: In infringing the treaty he would not be violating that statute.

Mr. O'CONNOR: Every treaty regarding shipping is subject to the expressed or implied exception that all ships enter all ports subject to the local laws of the ports. If we put a licence law in force in our ports, a licence law which does not discriminate against treaty ships, every treaty ship will enter subject to that local law, which applies the same in essence to our own ships as to others. In that sense I say it is inconceivable that there would be an infringement of the treaty.

Hon. Mr. BALLANTYNE: Mr. Chairman, I understood a day or two ago that we had a Norwegian treaty.

Mr. O'CONNOR: There are a lot of old treaties, or there were. One of them was a Norwegian treaty, made a way back in Georgian days, I think.

Hon. Mr. BALLANTYNE: Is that Norwegian treaty on all fours with the Commonwealth Treaty?

Mr. O'CONNOR: Most of the treaties are in practically the same terms; they are non-discrimination treaties. There are some old treaties, but as to whether they are alive or not, by virtue of our legislation, is a question.

Mr. BURCHELL: They have disappeared.

Mr. O'CONNOR: You think we have put them out of effect by statute?

Mr. BURCHELL: Yes.

Mr. O'CONNOR: These treaties of course gave rights of passage on our waters. But Mr. Burchell, who is handling this business every day, would know.

Hon. Mr. COTE: So we denounced them by implication?

Hon. Mr. BALLANTYNE: And all we have now is the British Commonwealth Treaty—or, as I prefer to call it, the British Empire Treaty?

Mr. O'CONNOR: We do not seem to have any obligations now to any of what we may call the foreign nations. To the Commonwealth nations we have the obligations of the treaty.

Hon. Mr. BALLANTYNE: Solely to the Commonwealth nations?

Mr. O'CONNOR: So far as my knowledge goes.

Hon. Mr. COTE: When we were putting through the Shipping Act we thought we were bound by the Norwegian treaty.

Mr. O'CONNOR: That was discussed.

Hon. Mr. COTE: You say it has been denounced by statute?

Mr. O'CONNOR: No. The conditions are the same now as then. But I would instantly defer to Mr. Burchell's opinion on this.

Hon. Mr. DANDURAND: Mr. Burchell, would you give us your opinion?

Mr. BURCHELL: I am afraid I should want to look further into the matter. But as I understand it, under the present Act which was passed in 1934, the privileges of the coasting trade are confined only to British ships. No reservation, as I understand it, was made in the Bill with respect to treaties. There was some talk in this Committee of making a reservation with respect to some old treaties. The shipping men in the department can tell us whether the Norwegians have attempted in recent years to exercise the privilege of coasting in our waters.

Hon. Mr. BALLANTYNE: Whether they have attempted to exercise the right is not the point. Have they the right?

Mr. BURCHELL: Not under the 1934 Act. In this committee there was some talk of there being some old treaty under which the Norwegians might claim to exercise the privileges of the coasting trade in Canada, and some consideration was given to the question whether or not there should be a clause in the Shipping Act reserving that privilege, if it was found to be in existence, but no such reservation was made.

Hon. Mr. BALLANTYNE: And your opinion is that the right does not exist?

Mr. BURCHELL: It does not exist.

Mr. O'CONNOR: By enacting the Merchant Shipping Act of 1934 we, to all intents and purposes, denounced those treaties.

Mr. BURCHELL: That is what I understand.

Mr. O'CONNOR: Then this is certain, by law, as distinct possibly from our treaty obligations, those treaties are not in effect.

Mr. BURCHELL: That is it.

Hon. Mr. GRIESBACH: My recollection is that we no longer regard those old treaties as effective because what they provided for is now, by common consent, recognized in international relationships.

The CHAIRMAN: Gentlemen, we are through for the day if no other person has anything further to say. To-morrow we will hear the Canadian Automotive Transport Association, the Ontario Automotive Transport Association, the Ontario Motor Coach Operators Association and the Canadian Transit Association. The provinces will also be represented.

Mr. HINDS: The Chairman has requested me to read the following letter:—

THE WINNIPEG BOARD OF TRADE

BOARD BUILDING, 325 Main Street,

WINNIPEG, February 15, 1937.

HON. GEO. P. GRAHAM, *Chairman*,
Committee on Railways, Telegraphs and Harbours,
The Senate,
Ottawa, Ont.

DEAR SIR,—The Winnipeg Board of Trade has given careful consideration to Part 2, Bill B—"An Act to establish a Board of Transport Commissioners for Canada," and desires to register its protest against the provisions of said Part 2 on the following grounds:—

That the regulation pertaining to water transport as proposed in Part 2, Bill B, now before the Senate, would seriously interfere with the free movement of Canadian grain; and

That such regulation would tend towards monopoly and to an increase in the cost of lake transportation of Canadian grain to the detriment of the producers of Western Canada; and

That such regulation would be the means of diverting considerable traffic to other channels to the detriment of Canadian lake carriers;

Therefore the Winnipeg Board of Trade is opposed to any statutory power or regulation that would control the lake transportation rates on grain.

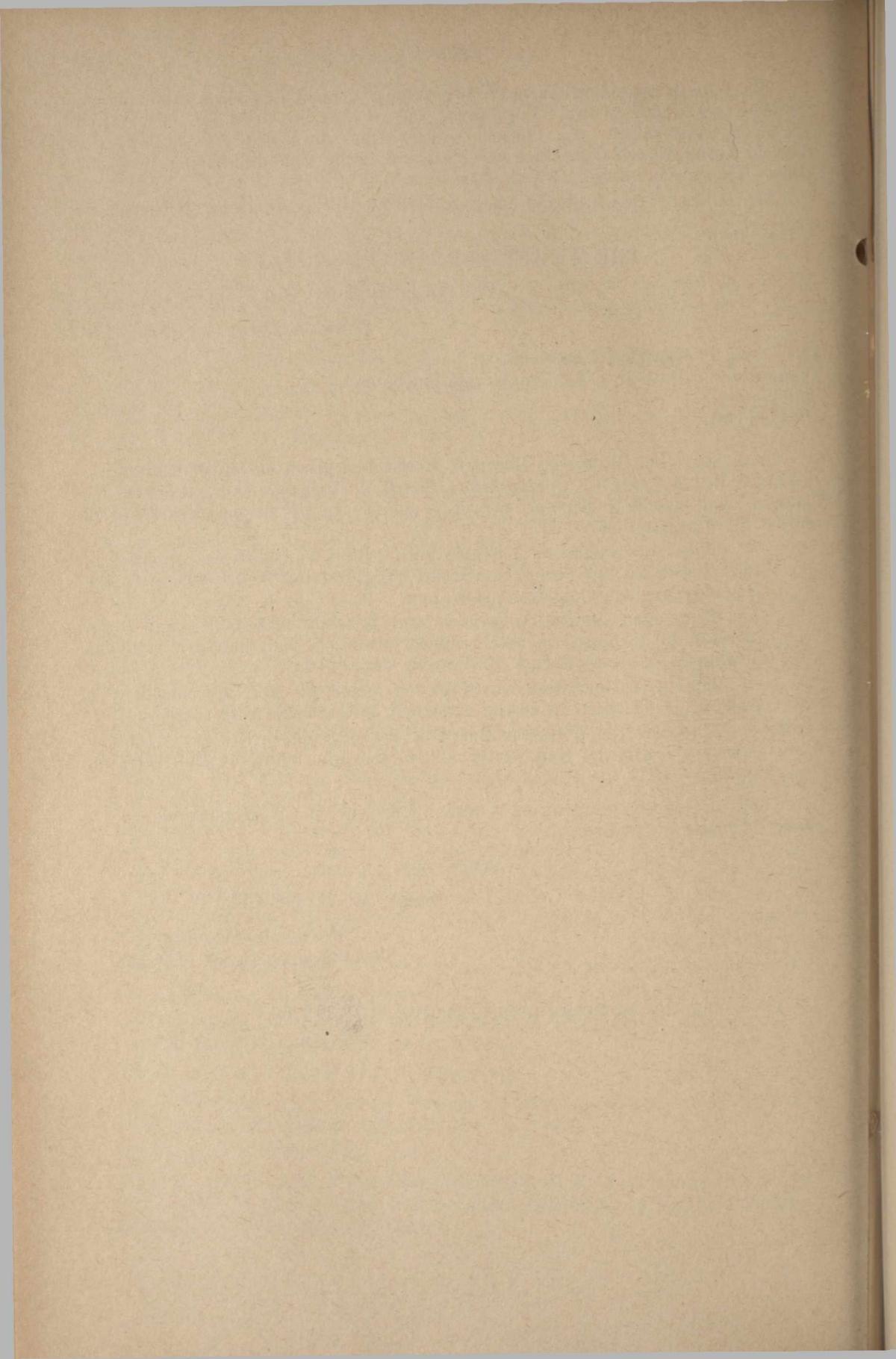
Copy of this communication is also being sent to the Honourable C. D. Howe, Minister of Transport.

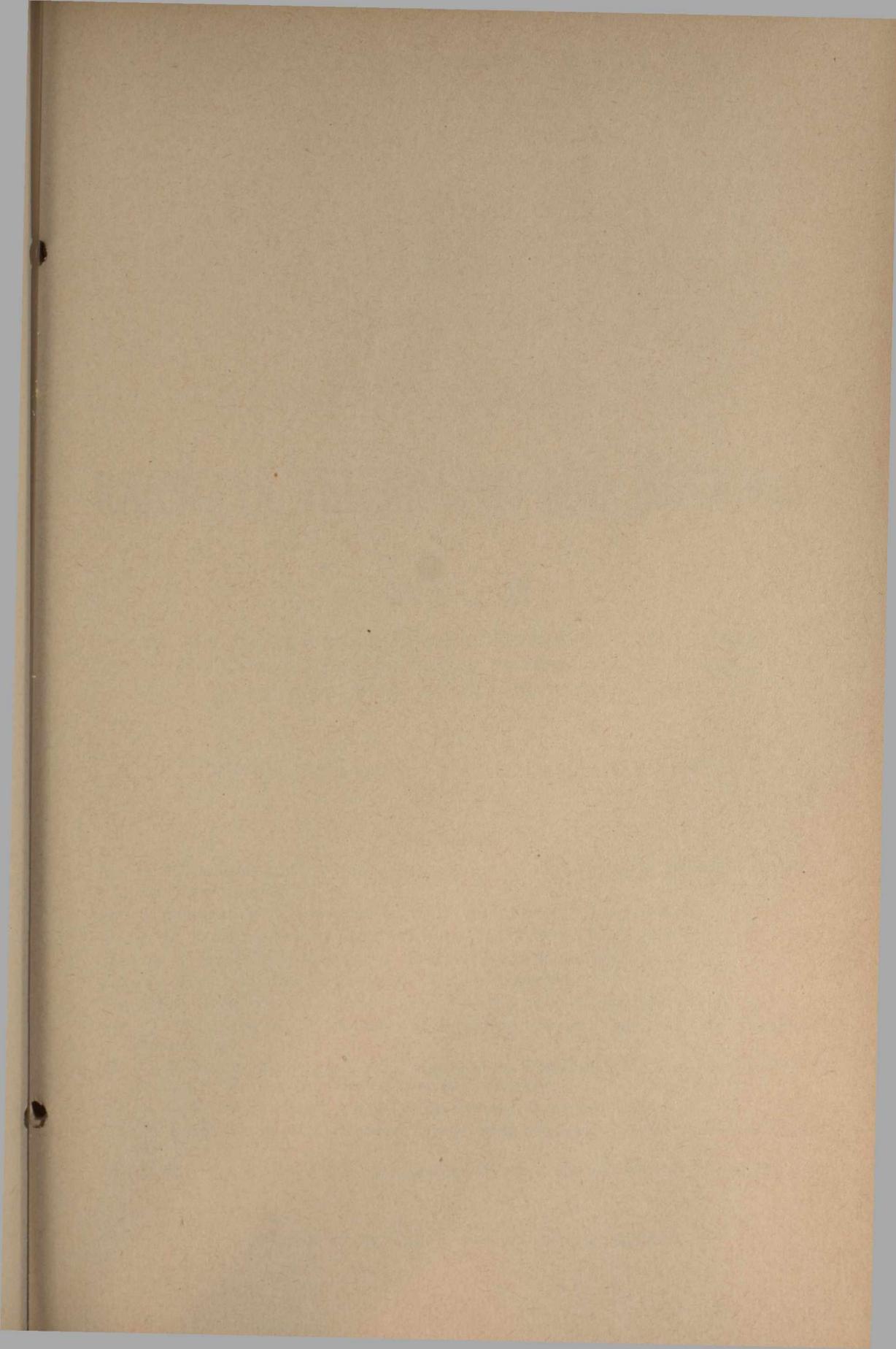
Yours truly,

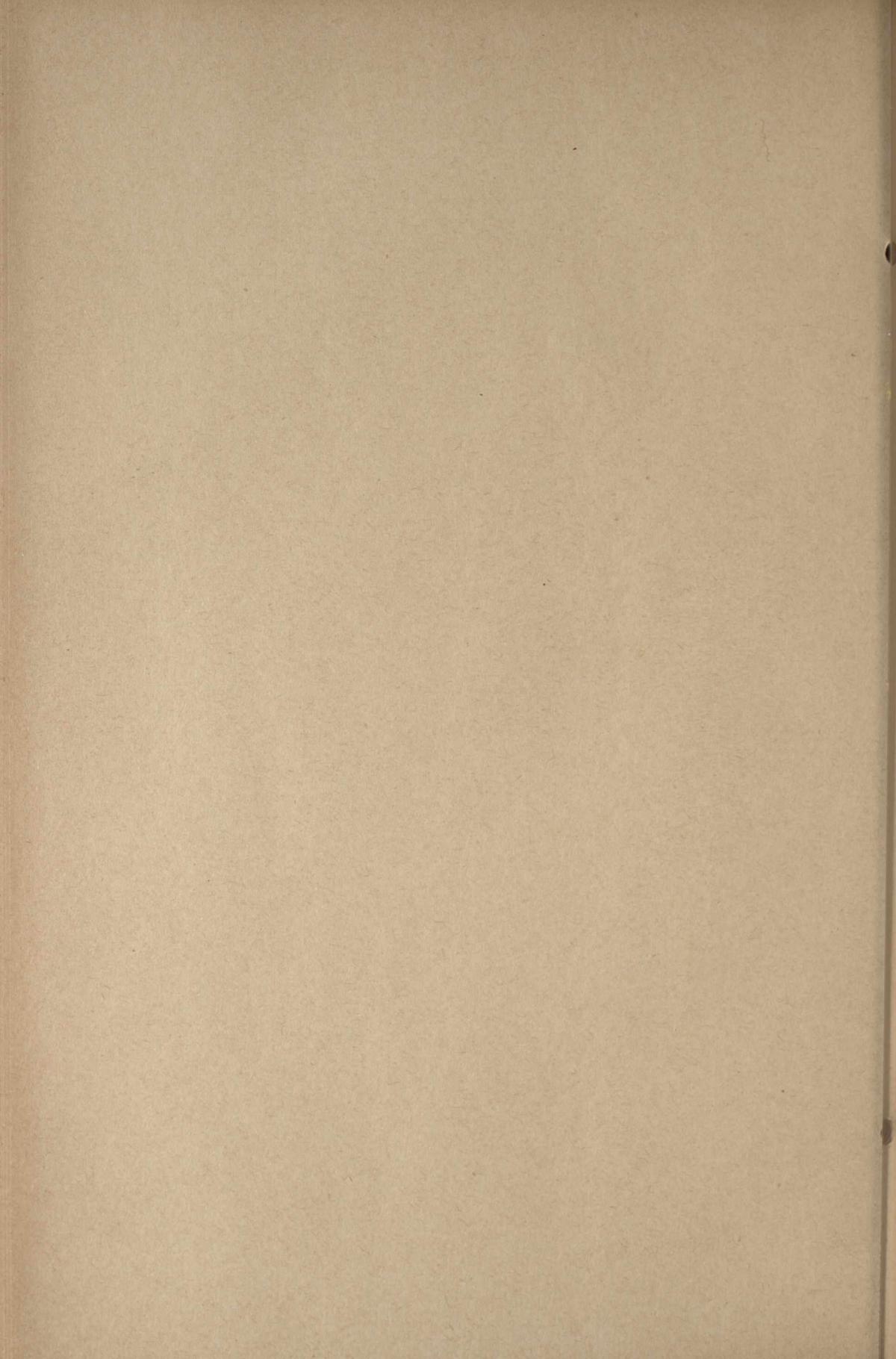
(Sgd.) E. C. GILLIATT,

Managing Secretary,
The Winnipeg Board of Trade.

The Committee adjourned until to-morrow at 10.30 a.m.







THE SENATE OF CANADA



PROCEEDINGS

OF THE

STANDING COMMITTEE

ON

RAILWAYS, TELEGRAPHS AND HARBOURS

ON

BILL B

An Act to establish a Board of Transport Commissioners
for Canada, with authority in respect of transport
by railways, ships, aircraft and motor vehicles

No. 5

The Right Honourable GEORGE P. GRAHAM, P.C.,
Chairman

WITNESSES:

- Mr. G. W. Mason, K.C., Toronto, representing the Provinces of Ontario, Manitoba and Saskatchewan.
- Mr. A. Routhier, K.C., representing the Attorney General of Quebec.
- Mr. J. B. Dickson, Deputy Attorney General for New Brunswick.
- Hon. A. S. MacMillan, Minister of Highways for Nova Scotia.
- Hon. G. Sloan, Attorney General for British Columbia.
- Mr. Irving S. Fairty, K.C., Toronto, representing Gray Coach Lines, Ltd.
- Mr. D. W. Lang, K.C., Toronto, representing Ontario Motor Coach Operators Association.
- Mr. Louis Ritchie, Saint John, N.B., representing S.M.T. System, Ltd., Scotia Motors, Ltd., and Old Colony Coach Lines, Incorporated.
- Mr. R. G. Perry, Montreal, representing Provincial Transport Co.
- Mr. W. Leigh Brintnell, Edmonton, representing Mackenzie Air Service and United Air Services.
- Mr. D. S. Ormond, Winnipeg, representing Wings, Ltd., and United Air Services.

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1937

THE STANDING COMMITTEE ON RAILWAYS, TELEGRAPHS AND
HARBOURS

The Rt. Hon. GEO. P. GRAHAM, P.C., Chairman

The Honourable Senators

Arthurs	L'Espérance
Ballantyne	Logan
Barnard	MacArthur
Beaubien	Marcotte
Black	McDonald (<i>Shediac</i>)
Bourque	McGuire
Buchanan	McLennan,
Calder	McRae
Casgrain	Meighen
Copp	Michener
Dandurand	Molloy
Dennis	Moraud
Farris	Murdock
Gillis	O'Connor
Gordon	Parent
Graham	Pope
Green	Rainville
Griesbach	Raymond
Haig,	Robinson
Hardy	Sharpe
Harmer	Spence
Horner	Sutherland
Jones	Tobin
Lacasse	Turgeon
Laird	Webster—50.

(Quorum 9)

MINUTES OF EVIDENCE

THE SENATE,

THURSDAY, February 18, 1937.

The Standing Committee on Railways, Telegraphs and Harbours, to whom was referred Bill B. intituled "An Act to establish a Board of Transport Commissioners for Canada, with authority in respect of transport by railways, ships, aircraft and motor vehicles," met this day at 10.30 a.m.

Right Hon. George P. Graham, Chairman.

The CHAIRMAN: We have been asked to hear the representatives of the provinces this morning. The first gentleman to come before us is Mr. Mason.

Mr. G. W. MASON, K.C., Toronto, representing the Provinces of Ontario, Manitoba and Saskatchewan: Mr. Chairman and gentlemen, the matter of motor transport in Canada goes back not so many years, because commercial vehicles first appeared on our highways in considerable number about the year 1916. From that year on, over all the provinces of Canada, there has been a growing development of highways which had been built for the accommodation of horse traffic and the building of highways which would be suitable for the changes introduced by the internal combustion engine. As a result there are to-day many thousands of miles of highways in the various provinces of Canada, and each province has had to undertake seriously the regulation of motor traffic in connection with the improvement of its highways, the two going on side by side. The highways investment is to-day extremely large; the indebtedness also is extremely large, and the provinces now have each of them a code governing the regulation of those highways.

I do not want to take your time to investigate the provisions of any of these codes, except to say briefly that there have been conferences between the provinces and the Dominion, notably in the years 1933 and 1935, with the object of furthering the improvement of conditions pertaining to motor traffic throughout Canada. Many bodies, like the Canadian Manufacturers' Association and the Boards of Trade, have been working in an endeavour to improve the conditions of motor transport. The matter was considered very fully by the commission which sat for the investigation of transportation in the year 1931, and at page 56 of its report, section 168, you will find that the commission enunciated certain general principles upon which the operators of road passenger services and common and contract carriers of freight, should be regulated. These principles were principles that had been advocated by the Manufacturers' Association, the Boards of Trade and other bodies representing shippers, and there has been a steady growth of provincial regulation based upon the principles set out in this paragraph 168. For instance, they wished to provide that operators should be insured against the risk of highway traffic, that there should be proper working conditions, so that the men driving should not have to drive too long a period. They wished to provide a standard of fitness and safety of vehicles, for the preservation of road surface, and so on. As a matter of fact, the provinces have gone beyond the recommendations set out in paragraph 168, because they have provided, I think in all cases, that persons using the highways for commercial purposes must secure certificates of convenience and fitness. In the province of Ontario that is not done by any licensing authority, but by the Ontario Municipal Board. Every applicant for a commercial licence must appear before that Board and make representations to substantiate his claim.

I understand that this matter was before your Committee yesterday, and that the person then making representations told you that to a greater or less degree in the various provinces these recommendations of the commission had been approximately carried out—in some cases and some provinces not entirely; in others almost so. I merely mention that to indicate that if it were now proposed to introduce a system of regulation and licensing under this Bill, it would mean a duplication of a system already in existence, a system which has been growing and advancing with changing conditions during a considerable period of years.

The CHAIRMAN: There is considerable complaint throughout Ontario from those affected that people residing in municipalities whose main street is a highway, or is adopted as a highway, feel that they are overburdened to keep up a provincial highway for through traffic. The municipalities get no assistance and the men and women who pay the taxes maintain the street. So far as I can find out they have never been considered.

Hon. Mr. GRIESBACH: But if you routed that traffic around that community you would hear a terrible howl from the people. They would complain that they were being side-tracked.

The CHAIRMAN: If that was done two highways would have to be built, but the highway authorities adopt our highway without aye, yes or no, and ask us to maintain it.

Mr. MASON: I thought it would be very convenient for the members of the Committee to have some knowledge of the figures involved in connection with the question they are considering. It has been with a great deal of difficulty that these figures have been assembled, and I have been at pains to make them as accurate as possible. The object of giving them is to indicate just about what proportions they represent. Since 1920 the province of Ontario alone has spent \$313,000,000 in the improvement and maintenance of highways. The estimated expenditure for this year is \$26,500,000. The public accounts for the year 1935-36 show that the total revenue of Ontario from motor vehicles, comprising all types, is \$24,507,000.

Hon. Mr. GRIESBACH: From licences?

Mr. MASON: Everything—gasoline taxes, licences and everything else that comes from the motor vehicles.

The large proportion of that, to the extent of almost 60 per cent, is from private motor vehicles; the proportion from commercial vehicle traffic for gain is also large, being 31 per cent. The private commercial vehicle furnishes 5 per cent, and bus traffic takes up 1 per cent plus.

The total revenue for the same period, and which was abnormally high for that year owing—

Right Hon. Mr. MEIGHEN: What year?

Mr. MASON: 1935-36—was \$65,725,000, so that the percentage of revenue derived from motor traffic for that particular year was 37·25 per cent.

Hon. Mr. DANDURAND: What would be the average income?

Mr. MASON: That is an abnormal year. I will give figures later which will show the whole of Canada for 1934, the last year for which there are complete details. The number of commercial vehicles in the whole of Canada in the year 1933 was 154,114. Now, commercial vehicles are of three types: first, what is known as a public commercial vehicle—a vehicle that carries goods for gain; second, a private vehicle—one that carries goods for the owner of the truck; and third, passenger vehicles—buses which carry passengers.

Hon. Mr. ROBINSON: Did you say 1933?

[Mr. G. W. Mason.]

Mr. MASON: Yes, 1933. In 1934 it was 165,057; and in 1935 it was 172,775. Right here may I stop to make an observation that is of importance. The commission to which I referred a few moments ago, and which made valuable recommendations with respect to motor traffic, used the figures that were then available.

The CHAIRMAN: Who were on that Commission? Perhaps we can judge the value of what is in the report if we knew who were on the commission?

Mr. MASON: It was a very distinguished commission. The members were: Lord Ashfield, Right Hon. Mr. Justice Duff, Sir Joseph Flavelle, Mr. Leman, Mr. Loree, Dr. Murray of Saskatoon and Dr. Webster of Shediac.

The CHAIRMAN: That is a pretty good commission.

Mr. MASON: An interesting thing to observe is that their figures were based on traffic for the year 1930-31, which were the latest available to them. The depression which ensued affected not only rail traffic; it seriously affected motor traffic. In the immediately succeeding years the number of licences dropped sharply. But later that number began to pull up, and in 1934 figures were almost identical with those for 1931; and there was some slight improvement in 1935.

On the other hand, motor buses—and I do not want to say much about motor buses, because there are representatives of that traffic here who are much more competent than I to speak about it—decreased from 2,056 in 1933 to 1,742 in 1934, and pulled up to 1,848 in 1935. So the number of buses on the road was about ten per cent less in 1935 than in 1933.

Other interesting figures are with respect to the gasoline tax. I have the figures for the sale of gasoline all over Canada. These figures include gasoline used for all purposes, and of course there are certain purposes not connected with motor vehicles. But roughly 85 per cent of all the gasoline used in Canada is used in respect of motor vehicles that travel upon the highways. In 1930 the consumption was 582 million gallons. In 1934 that had dropped to 534 million gallons. In 1935 it increased to 573 million gallons, but that was still nearly 10 million gallons below 1930. So you will see that having regard to volume of traffic, conditions existing now are fairly comparable to those existing at the time the Transportation Commission sat in the year 1931.

Mileage of roads is another interesting subject. Figures in regard to this can be obtained from the Canada Year Book of 1936, page 686. Mileage of roads in Canada as at December 31, 1934, was 409,269.

Hon. Mr. GRIESBACH: What type of road?

Mr. MASON: I am going to give the break-up. These figures are subject to considerable change since that year. In that year 3,727 were concrete; 4,869 were macadam; 84,948 were gravel; 172,646 were improved earth; and the remainder, 142,981, were unimproved roads. There has been a great deal of road-building since 1934, particularly in the Maritime Provinces; and I know there has been a great deal in Ontario. These are the latest figures for Ontario, 1936. That province has 75,000 miles of highways, of which 4,000 are paved and 12,000 are of stone and gravel, the remaining 59,000 being highways of other descriptions.

In the year 1934, for which details are available from all provinces, the total provincial revenue and the total revenue from motor vehicles in each province were respectively as follows:—

Alberta..	\$15,178,607	\$3,650,689	or 24	per cent
British Columbia.. . . .	19,527,543	4,348,368	or 22·3	per cent
Manitoba..	13,966,921	2,734,413	or 19·6	per cent
Nova Scotia..	8,014,618	2,317,121	or 29	per cent
New Brunswick..	5,436,508	1,624,913	or 29·9	per cent
Ontario..	50,067,841	22,118,175	or 44·2	per cent
Prince Edward Island	1,385,777	275,713	or 19·9	per cent
Quebec..	28,282,503	10,405,431	or 36·8	per cent
Saskatchewan..	14,252,786	3,145,228	or 22	per cent

With regard to Ontario, I am told that motor traffic revenue has represented for a number of years the same percentage, roughly speaking, of the province's total revenue as it did in 1934.

Hon. Mr. MACARTHUR: Do the figures you have given include licences and gas taxes?

Mr. MASON: Everything; they are totals.

Hon. Mr. MACARTHUR: The gas tax varies considerably in the provinces.

Mr. MASON: If it will be convenient to the Committee, Mr. Chairman, I should like to leave with you copies of a publication of the Canadian Automobile Chamber of Commerce, entitled "Facts and Figures of the Automobile Industry." They give information along the line just referred to by the honourable senator, and a great deal of other useful information.

Hon. Mr. GRIESBACH: Is there a standard form of approaching all these statistics?

Mr. MASON: Yes.

Hon. Mr. GRIESBACH: The approach is about the same in all cases?

Mr. MASON: It is as close as possible.

Hon. Mr. MACARTHUR: Motor vehicle revenue will average about 20 per cent of the revenue from all sources?

Mr. MASON: Oh, more than that. The minimum was 19·6 per cent in 1934. The average is much higher than that.

Of Ontario's 1934 motor vehicle revenue, \$6,574,000 or 31·02 per cent, came from commercial vehicles, that is the type operated for gain, to carry freight; \$1,339,000, or 6·32 per cent came from private commercial vehicles, that is vehicles owned by the people who use them to transport their own commodities; and \$292,918, or 1·38 per cent, from public vehicles, that is buses.

This is merely in passing, but it may interest the Committee, as it did me. The first registrations of motor vehicles in Ontario were in 1904, and the number registered that year was 535. The number registered in 1936 was 512,916. To the ever growing motor traffic are due the great improvements to our highways and the better regulations that have been made for safety of persons who use the highways. I have given you these figures, Mr. Chairman, for the purpose of providing as adequate information as can be obtained, and also to indicate that the development which has taken place has been due to enormous expenditures on the part of the provinces. I am sorry that I have not available figures showing the total of all expenditures made by all the provinces for highways, their maintenance and administration. But I can give you the total funded highway debt of the provinces. In 1934 it was—and this excludes all expenditures that were not funded—\$462,182,328. That figure is taken from the Canada Year Book of 1936, page 688.

About 40 per cent of the vehicles and motor buses of Canada are in Ontario. I cannot tell you exactly what proportion there is in the province of Quebec, but I should judge that these two provinces together have at least two-thirds of the motor traffic of the Dominion.

Speaking more directly to the Bill, I am submitting, Mr. Chairman, that the motor transport provisions are objectionable on various grounds. The first ground, which I do not propose to argue at length, is that of constitutionality. Paragraph (i) of section 2, the interpretation section, says:—

"Interprovincial or foreign trade" means the transport of goods or passengers between a place in one province and a place in another province, or between a place in Canada and a place outside of Canada, . . .

As to that part, I am not going to address any argument upon the constitutionality of the measure at all, but later on I will argue that if the paragraph stopped there the amount of traffic which would be involved would be so comparatively

[Mr. G. W. Mason.]

small that it would never be convenient or profitable for the Dominion to go to the expense required to set up a duplicate system; and in the second place, such a duplicate system would cause great disorder and confusion. The paragraph goes on:—

and shall include any transport of goods wholly within a province which forms part of a through movement of goods, whether or not on one bill of lading, with another carrier when the points of origin or destination are in different provinces or in Canada and a foreign country.

My submission, Mr. Chairman, is that all of the lines after the first four should be omitted, because they are not within the jurisdiction of Parliament.

Right Hon. Mr. MEIGHEN: Are you sure the first four are?

Mr. MASON: No, I am not conceding that the first four are, not for a moment. But I am clearly of opinion that no substantial argument can be asserted for everything after the first four lines, at all events. May I indicate briefly why? Let us assume that a trucker in Ontario is going to take some goods from Stratford to Port Dalhousie, a lake port on lake Erie. What would happen? It is going to be transhipped there and taken up the Lakes and eventually carried to Manitoba or the West, or to some point in the United States. If that provision were enacted, and were constitutional, the trucker in Ontario who was carrying those goods from Stratford to Port Dalhousie would be within the jurisdiction of this Bill. Now, I submit that is opposed to our constitution. The same point precisely came up in a case which was decided by the Privy Council in 1912, *City of Montreal v. Montreal Street Railway*, 1912 Appeal Cases, page 333. The point there was whether the Montreal Street Railway, by virtue of carrying through traffic and by virtue of being connected with a railway which had been declared by Parliament to be a work for the general advantage of Canada, with within the jurisdiction of Parliament. And it was pointed out by Lord Atkinson, in giving the judgment of the Privy Council, at page 342, that under the Dominion's legislation the provincial line would be put in this position, that its local traffic would be under the province and its through traffic under the Dominion. He described that as "A most unworkable and embarrassing arrangement." The Judicial Committee held that the circumstances I have mentioned did not bring that railway within the legislative jurisdiction of Parliament. It would be precisely the same thing with regard to an instance such as I have given to you. There is a truck carrying goods from Stratford to Port Dalhousie. The goods are to be transhipped to another carrier, to one which is under Federal control—a railway, if you like—and taken to another province, and that truck would be subject to the provisions of this Bill simply because it was engaged on part of a through movement.

Mr. O'CONNOR: Is there not a distinction? In that case it is dealing with the corpus, the railway; in this case with the trade.

Mr. MASON: I do not know that that is conceded.

Mr. O'CONNOR: You will admit there might be that possibility.

Mr. MASON: You can treat this Bill from two aspects: you may say the highway is a physical quantity—

Mr. O'CONNOR: I do not think it considers the highway as a physical quantity at all.

Mr. MASON: —or you may say it is not a physical quantity you are considering, but a service. I do not want to go into this argument at length. I am merely suggesting one or two things. Suppose you have an individual trucker going from Belleville, Ontario, to Montreal, Quebec. Are you going to say that the carriage by that one man in that truck is a work or undertaking that connects the two provinces; that it is a work for the general advantage of Canada? I submit you cannot say that as to a service of that character.

The CHAIRMAN: Don't you say that under the Railway Act with regard to some railways?

Mr. MASON: No.

The CHAIRMAN: Well, something pretty close to it.

Mr. MASON: It is not a service of that character, with deference, Mr. Chairman. You have in the railway something physical joining the provinces.

Mr. O'CONNOR: Dealing with that as a physical quantity, that is how you would have to do it. But the Bill does not do so.

Mr. MASON: It has been suggested that jurisdiction might be given here over motor transport by reason of the fact that the Dominion has jurisdiction over trade and commerce. But of course that argument would not apply because it has been held frequently by the Judicial Committee that that does not extend to a licensing system of a particular trade. This Bill purports to assert jurisdiction over traffic by reason of a licensing system of this particular motor transport, carriage by air, and so on. Different considerations apply to carriage by air, with which we are all familiar. But here you have an attempt to regulate by a licensing system this trade of motor transport, and I submit the decisions in the Board of Commerce Act, 1922, A.C. 191, *City of Montreal v. Montreal Street Railway*, 1912, A.C. 333, and *Attorney-General for Canada v. Attorney-General for Alberta*, 1932, A.C. 54 show that that argument cannot stand. I refer also to *O'Brien v. Allen* 30 S.C.R. 340 and 342, and quote from the judgment:—

It has never been doubted that the right of building highways and operating them is wholly within the purview of provincial jurisdiction.

I submit there has never been any attempt on the part of the Parliament of Canada to assert such a jurisdiction as it attempted to be raised by this Bill for the first time in the history of Canada.

The CHAIRMAN: Still in late years the federal authority has assisted in building provincial highways.

Mr. MASON: That is only so to this extent. The assistance has not been large as compared with the total volume of expenditure by the provinces; and, quite apart from that, such federal assistance has been more or less of a relief measure.

The CHAIRMAN: It was started before it became a relief measure; but I should not like to argue the constitutional point, for I do not know anything about it.

Hon. Mr. GRIESBACH: What about Dominion highways?

Mr. MASON: There are very many interesting aspects to that constitutional argument. I suppose somebody could argue under sections 91 and 92 of the *British North America Act* that the Dominion could assert jurisdiction by saying: "Well, we will declare certain highways to be works for the general advantage of Canada." I can show you in a few minutes what would happen if that were done.

In answer to Senator Griesbach's question, Dominion highways, as far as I know them to exist, are of two classes. First, highways through Dominion parks. I think you have an instance in Ottawa, where you have a Dominion Commission to beautify this area. The Commission owns the highways, which are under the Dominion jurisdiction. Then there are certain highways along the canals, but I may tell you it has been the practice of the Dominion Department to get rid of those as quickly as possible. They had highways along the St. Lawrence—

The CHAIRMAN: I know that.

[Mr. G. W. Mason.]

Mr. MASON:—and along the Welland canal. I saw only last week conveyances of the highways along the Welland canal from the Dominion to the province. They are regarded as a liability, not as asset. So far as Dominion highways are concerned, they are absolutely negligible; they are only through parks.

Right Hon. Mr. MEIGHEN: Yes.

Mr. MASON: May I indicate then—leaving that argument—what practical difficulties would flow from the adoption of section 2, subsection 1. One of the very first difficulties you would encounter would be a dual control of the motor transport industry. Suppose a trucker is picking up a load at Sherbrooke for Montreal, but he has in that truck 200 pounds or 300 pounds of freight which is not going to be delivered at Montreal, but is to be carried through to, say, Belleville. As to that small quantity of freight he is subject to the jurisdiction of the Dominion, and the remainder of his load is subject to the jurisdiction of the province. That is an impossible condition for any trucker to operate under. I need not dwell on what would follow, because when we come to sections 14 and 15 of the Bill we shall find they provide for setting up a system absolutely duplicating the provincial systems.

Suppose I am making a shipment from Toronto to Montreal and want to pick up certain parts from my factory to send by rail. The railway station is about five miles distance from the factory. That part of the load is under provincial jurisdiction, the main shipment is under Dominion jurisdiction.

Then suppose a man has a 50-pound parcel which he wishes the carrier to take for him to a point beyond the boundaries of the province. What is the trucker going to do? If this Bill were in force he would say: I must have a Dominion licence before I can take that parcel. He would not consider it worth while to take out a Dominion licence, and so he would not take the parcel; or, if he did, and was dishonest, he would try to hide it.

In Ontario, and I suppose more so in the other provinces, there are areas where the railway gives a service two or three days a week. Suppose someone wants to get goods out in a hurry. The motor truck is the most convenient means of transport. If the goods are destined to a point outside the province the trucker would not take them. He would say, "I am subject to Dominion jurisdiction, and I don't want to take out a licence."

This raises a further question. If you are going to assume jurisdiction over provincial highways, are you willing to pay anything towards their upkeep? Why should you derive revenue from licences for the use of roads that you do not own, roads into which the provinces have spent hundreds of millions of dollars? Every road built in Ontario receives a substantial contribution from the Provincial Treasury. In a word, all these roads are subsidized. If you are going to use provincial highways, are you willing to contribute to their cost of construction and maintenance, to subsidize them?

Take another instance. I could multiply them by the score. There are many small truckers owning one or two trucks, doing business on a small scale. They may be carrying goods from points in Ontario fifty or sixty miles from Montreal. They have their licences to do their ordinary work on the provincial highways. If you are going to say, "The moment you cross the interprovincial boundary you have to have licences from the Dominion Government as well," see what an impossible condition you impose on those small truckers. I do hope, gentlemen, if this Bill is enacted none of these truckers will be placed in the unfortunate position of breaking any of the regulations, for this would involve a fine not exceeding \$500 or not less than \$200, and most of those men would have to put mortgages on their farms to meet the fines.

Now, gentlemen, I submit this Bill is entirely ineffective for one reason. I might give many others, but I do not wish to multiply them. You will find that by far the greater amount of motor truck traffic is in the short, not in the

long hauls, and it is entirely within provincial jurisdiction. Most of the traffic is intraprovincial, not interprovincial. I have for two weeks tried hard to get figures as to what the total volume of motor transport freight is to the whole volume of freight carried in the Dominion. I have not been successful. The closest figures I could obtain run from 3 to 5 per cent.

Right Hon. Mr. MEIGHEN: Five per cent crosses provincial boundaries?

Mr. MASON: No. Take all the traffic carried on motor trucks, and all traffic carried by all means of transportation, and the proportion is 3 to 5 per cent.

Right Hon. Mr. MEIGHEN: In motor vehicles?

Mr. MASON: Yes.

Hon. Mr. GRIESBACH: Five per cent only?

Mr. MASON: Yes.

Right Hon. Mr. MEIGHEN: That is amazing to me.

The CHAIRMAN: So it is to me. It might appear different if we saw the figures.

Mr. MASON: I want to make it quite clear that I cannot give you the figures, but that matter is discussed in the report of the Royal Commission on Transport of 1931. There may be something there that would indicate that the figures I have given are reasonably correct. But let me say this so as to make the matter perfectly clear. The vast proportion of traffic borne by motor carriers anywhere in Canada is not through traffic or interprovincial or interstate; it is local traffic within the provinces, and that is something that, admittedly, this Bill could not control.

For the comparatively small amount of traffic, interprovincial or interstate in its nature, are you going to subject the relatively few people who are engaged in that traffic to a duplicate system of regulations such as I have indicated?

Now, may I refer very briefly to a few sections of the Bill. I regret to have taken up so much of the time of the Committee. Section 14, subsection 4 provides:—

The Minister may in the licence prescribe the route or routes which the public commercial vehicle or vehicles named therein may follow and the schedule of services which shall be maintained.

Now, Mr. Chairman, I ask you how that could possibly be carried out? In any one province you have large numbers of main highways, you have large numbers of subsidiary highways which are ancillary to these main highways; in each province you have worked out a route which these vehicles are to follow. That is made up on a number of considerations—the amount of traffic, the nature of the road, the weight of metal, the size of bridges, and many other things. Here is the Dominion going to come in and set up a system by which they will lay out these routes. But these routes have to go through a province. Now, the province, for the infinitely larger amount of traffic within the province has to lay out routes. As a result, you are going to have one jurisdiction saying you shall go over these certain routes, and the other saying you shall go over these certain routes. There would be absolute chaos unless there were co-ordination. That would absolutely destroy the whole provincial system which has been set up.

Now, take subsection 5 of section 14:—

The Minister shall not issue a licence in the case of a public commercial vehicle without first being satisfied by certificate issued by the Board that the proposed service is or will be required by the present and future public convenience and necessity.

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You will see immediately what that means. You have over 170,000 vehicles with licences in Canada, and you are going to place upon the Board the necessity of issuing a certificate of public convenience for every one of those public vehicles. There is a provision in this Act which says the Board shall exercise and enjoy all the rights they have under the Railway Act. They would have more exercise than enjoyment.

Here is a little trucker running one truck, carrying goods from a remote village in British Columbia across the border into the adjoining state, or here is a man wanting to go over the New Brunswick border to Amherst, which is his market town. He has got to come to Ottawa and get a licence before he can do that. I submit that that is a burden which should not be case upon any body so important as the Dominion Railway Board, or the Transport Board, to be set up. Further, I submit that it would be an intolerable burden upon the business people who would be affected throughout the length and breadth of Canada.

Now, how is the board going to get the information? It is difficult enough in the provinces. In the province of Ontario the applicants have to come to the Ontario Municipal Board—and some of them have to come long distances, and many applications are refused—but what are you going to do if you have a board sitting at Ottawa?

Hon. Mr. DANDURAND: How is the Municipal Board constituted?

Mr. MASON: It consists of three members, appointed by the Government of Ontario, and these licences of public convenience are not issued otherwise than by that board.

May I give an illustration? I am not exaggerating at all. In the State of Michigan they have one of the Interstate Commerce Boards that sits in Detroit, and just within the last few weeks an application was made by people interested in Ontario transport. They were not quite ready to go on, and asked if they could have their application set down on the list. The reply was: "You may, but there are 300,000 applications on file, and if your application is set down on the list you will not be heard for two years."

Then I would like you to look at section 15, page 8. Paragraph (a) has to do with prescribing standards of design and operating efficiency of vehicles. That has already been done by all the provinces. Suppose we have a poor fellow with one truck. If he is subject to Dominion jurisdiction, and carries goods across the border or transships them by rail to another province, and certain standards are laid down for his vehicle, with which he complies, and this Bill lays down different circumstances, the situation would not be possible. The only way it could be done—

The CHAIRMAN: Do you think that would be a probability?

Mr. MASON: I do not know. It is possible.

The CHAIRMAN: We would be wrecked by every law in the country if we took an extreme view.

Mr. MASON: The view I am going to ask you to take is that when you have something that is first-class it should not be disturbed.

The CHAIRMAN: You might not disturb it; you might use it.

Mr. MASON: If you want to do that, I would say the proper thing to do would be in any province to allow the use of the standards of efficiency of that province.

The CHAIRMAN: I think you have got a pretty good case without going into such extreme examples of things which probably would never occur.

Mr. MASON: Look at paragraph (c):—

—limiting or regulating the hours of duty of any employees or class of employees with a view to the safety of the public and of the employees.

You might very well have differences there. We have regulations in Ontario—and I think they have them in each of the provinces—stipulating the number of hours a man may be employed in driving these vehicles. Other provinces might possibly stipulate a lesser or a longer period than the Province of Ontario.

The CHAIRMAN: We have been told by the Privy Council that we can only tell him if he is employed by the Federal Government.

Mr. MASON: You have anticipated what I was going to suggest, sir. That is clearly not within the jurisdiction of the Dominion.

Paragraph (d) deals with the specifying of the form of licence plates. The poor fellow has four plates now. Paragraph (e) has to do with renewals, and paragraph (f) with determining the qualifications of the drivers of any licensed vehicle.

Now, why, in this matter which is primarily a matter of safety within the province, should the Dominion attempt to impose qualifications on any province? It is easily seen from section 15 that it is almost a complete duplication of things which are satisfactorily taken care of by the provinces now, and who, after all, are the only ones to look after those things.

Now I come to section 16, and I would point out that in this section the private commercial vehicle is mentioned, although there is no provision in section 2, paragraph (u), of the Bill, to cover any vehicles other than public commercial vehicles.

If you look at subsection (3) of section 16—I have already alluded to subsection (2), which relates to fines—you will find:—

(3) If any licensee is convicted of an offence under this Act or under the Railway Act, or if the board is satisfied that a public commercial vehicle is operated otherwise than in accordance with the terms of a licence applicable thereto, the board may suspend or cancel the licence of such licensee in respect of one or all of the motor vehicles licensed.

In view of the character of the industry, and of the people engaged in it, I would submit that it would be utterly wrong to them to pass any code of legislation which they could not pick up in a pamphlet and read. This Bill brings in, by reference, large groups of sections from the Railway Act, and I say without hesitation, having read those sections, that numbers of them are absolutely incompatible with the conduct of motor transport.

Mr. O'CONNOR: They are brought in *mutatis mutandis*.

Mr. MASON: *Mutatis mutandis* does not apply to all; but leaving the words *mutatis mutandis* in, you still incorporate a number of the provisions of that Act which are inconsistent with the motor transport.

Right Hon. Mr. MEIGHEN: As I read the Duff-Flavelle report, they estimate the loss due to motor trucks at \$24,000,000, in 1930, which would be 7 per cent, and they say that even if you reduce that to \$20,000,000 the loss is still considerable. That is 6 per cent. It seems to me very small, and somewhat inconsistent with their first words as to challenging the supremacy of the railroads.

Mr. MASON: To a certain extent that could be justified. Take a short haul in the Niagara Peninsula, where the grapes are carried to the markets. That is all done by motor truck, probably.

Hon. Mr. GRIESBACH: I think also they had in mind the large grain traffic that forms part of the 96 per cent.

Mr. MASON: Quite so.

[Mr. G. W. Mason.]

Some reference has been made to section 22 of the Bill—Agreed charges. One of the gentlemen who spoke before your Committee last week referred to this section. I had occasion then to look at the English Act, and I should like, very briefly, to draw your attention to certain fundamental differences between that Act and this Bill. Section 22 of the Bill says:—

Notwithstanding anything in the Railway Act, or in this Act or in any other statute, a carrier may make such charge or charges for the transport of the goods of any trader or for the transport of any part of his goods as may be agreed.

and so on. Then he has to come to the Board and get that approved. That is not what the English Act says at all. I have the English Act here, and this is what it says at section 37:—

Notwithstanding anything in the Railways Act, 1921, but subject to the provisions of this Part of this Act, a railway company may, if it thinks fit, make such charge or charges. . . . as may be agreed.

Now the draftsman of this Act instead of putting in "a railway company" puts in the word "carrier," which applies to all classes of carriers. See what the difference is. In England you have an Act with a great many provisions, the first thirty-six of which deal only with motor transport; those from 37 on deal with railway transport, except for a few provisions dealing with both, none of which are relevant here.

What is the situation? In England the railway may say, "We want to agree with a shipper to carry goods at a certain price;" and a hearing is held. That is not what is meant here. This means that every one of the 170,000 truckers in the Dominion of Canada would have to come to Ottawa in person, or each by his representative, and say, "I have made an agreement with some shipper that I am going to carry his goods on my truck," and he could not do that until he came to the Railway Board and got approval of that agreement. I say that to subject hundreds and thousands of small men in the industry to this necessity is simply to take their living away from them. This simply means they have to do it. A few, who have a large number of trucks, might do it; but for the average man it would be absolutely impossible.

The English Act provides for thirteen areas in England, and two in Scotland, where there are licensing authorities. The applicant comes to that licensing authority and gets his licence or is refused it. Then there is an appeal provided to what is called an appeal tribunal, which tribunal deals only with appeals, not with initial applications. But under this Act the Transport Board will deal with initial applications.

Mr. VARCOE: The intention was to put motor carriers in the same position as the railways or any other carriers regulated by this part. There is no obligation on anybody to come to the Board under this part. If anyone wishes to take advantage of Part VI, he may do so.

Mr. MASON: Let us see what section 22 says:—

A carrier may make such charge or charges for the transport of the goods of any trader or for the transport of any part of his goods as may be agreed between the carrier and that trader: Provided that any such agreed charge shall require the approval of the Board. . . .

That is plain and simple. If you are in British Columbia or New Brunswick and want to make a charge under a certain agreement, that agreement must be approved here in Ottawa. That may not be the intention, but I submit that is the reading.

Mr. VARCOE: The trucks that you are speaking of are bound by Part IV to file a tariff. Now, this Part VI is intended to relieve truckers of the obligation under Part IV, if they wish to take advantage of it.

Mr. O'CONNOR: Otherwise there would be a railway monopoly.

Mr. VARCOE: That was the complaint that was made in England. That provision was made to meet the objection that was advanced in England.

Mr. MASON: I think it has been commonly admitted by shippers and carriers that so far as motor traffic is concerned you cannot make any absolutely uniform basis of tolls and tariffs.

Mr. VARCOE: That may be so.

Mr. MASON: If an individual trucker in British Columbia or New Brunswick wishes to depart from the tariff by making an individual agreement, he is obligated by this Bill to come to Ottawa for approval of that agreement. Now in England there is an appeal from the licensing authority to the appeal tribunal, as I have said; there is no initial hearing by the appeal tribunal.

Then in the English Act there is a provision that is not in this Bill at all, a provision which I submit is a fair one for every piece of legislation of this kind. In the English Act there is what is called the grandfather clause. Under that it is recognized that it is not right to require a licence of persons who are already engaged in this motor transport business, who have made an investment in the business. But, as I say, there is no provision of that kind here. If a man has been in the transport business twenty years in Canada, he still will have to apply for a licence under this Bill.

The next section I want to examine briefly is section 29, which I regard as one of the most dangerous in the Bill, from the standpoint of motor carriers. I call attention, Mr. Chairman, to the wording of this section. It says, "It shall be the duty of the Board . . ." that language is designedly there. It does not say "It shall be the privilege of the Board," nor "The Board may . . ." it says:—

It shall be the duty of the Board in determining in connection with any application for a licence, whether public convenience and necessity exists, to take into consideration—

(a) any objection to the application which may be made by any person or persons who are already providing transport facilities . . .

Gentlemen, I ask you, who are the seniors in providing transport facilities in Canada? Obviously, they are the rail carriers and the water carriers. What this really means is that if a man wants to get a licence, the Board has no option but to take into consideration the question of whether or not facilities already exist. What will the result be? The Board will have to say, "There are existing facilities. There is a railway. We cannot give this licence, because it would be duplicating an existing facility." I would not say that it would be impossible to get a licence, for one would have confidence that the Board would do what it could, but I say the Board would be under the duty of inquiring whether there was an existing transport facility.

The CHAIRMAN: Suppose there was an existing facility which operated for only half the year? Would it then be considered that another facility was necessary? What I am getting at is this. There is a universal complaint that trucks operate in certain sections of the country, where there are no good highways, in the summer months only, and that they quit when the snow comes. Railways are compelled by the Board to give service summer and winter, though they are unable to obtain any traffic in summer from many of the places like I am referring to now.

Mr. MASON: Mr. Chairman, I have created a wrong impression if in anything I have said I have indicated any hostility to the railways. I have not any. Everyone knows of the tremendous burden being borne by our country because of the condition of the railways, and everyone would be in sympathy with any measure that could relieve that situation without doing more harm than good.

[Mr. G. W. Mason.]

Hon. Mr. DANDURAND: Every taxpayer in every province feels that way.

Mr. MASON: Quite so. It is a problem that has come about because of progress. We have got out of the horse and buggy age and are in the motor vehicle age, and we cannot get back to where we were by horse and buggy legislation, if I may put it that way. Some reactionary legislation is really horse and buggy legislation. I am not saying that offensively at all. I understand the railway that runs out of Ottawa pretty nearly parallel to the Pointe Fortune road has made several applications to be allowed to discontinue. I speak subject to correction, for I am not familiar with the facts. But if the company wants to discontinue the line, and if motor traffic is such that that railway cannot pay, why endeavour to continue it? The Pointe Fortune road from Ottawa to Montreal, on the Ontario side, has been open all winter. That suggests a possible question that may be referred to the Board. On the Quebec side there is another road almost paralleling the one I have mentioned on the Ontario side. But that Quebec road is not kept open all winter.

The CHAIRMAN: You are referring to the highway now?

Mr. MASON: Yes. Now, suppose you assert jurisdiction over these highways, and suppose that in winter a trucker in the province of Quebec applied to the Transport Board for a licence. Could the Board say "We are granting a licence, but you cannot use the Quebec highway in winter, for it is closed. Go ahead and use the Ontario highway. The province of Ontario will keep it open for you"?

Hon. Mr. COTE: If a railway line were discontinued, as you are suggesting, how would the people be protected if there were no provision made for control of rates?

Mr. MASON: There would be plenty of competition in motor transport; there is no monopoly. So many people are engaged in the business that no fear need be felt on that point.

The CHAIRMAN: If you were Chairman of the Railway Board and followed the principle you have just suggested, of stopping railway service, your life would be miserable. Some regard must be had for the people who are located along the railway line. The question cannot be argued from a financial standpoint only.

Mr. MASON: It is a very difficult problem, Mr. Chairman, I know.

Now I will go on to the second paragraph of section 29. When an application for a licence is received from the Board, in determining whether public convenience and necessity exists, has also to take into consideration—

(b) whether or not the issue of such licence would tend to develop the complementary rather than the competitive functions of the different forms of transport, if any, involved in such objections.

What does that mean? If it would tend to develop the complementary functions of the different forms of transport, a licence would be issuable; if it would tend to develop the competitive functions of the different forms of transport, a licence would not be issuable.

Hon. Mr. FARRIS: Does it say that?

Mr. MASON: That is what I understand it to mean.

Hon. Mr. FARRIS: That must be read with the main part of the section.

Mr. MASON: Yes.

There are several sections of the Bill which by reference bring in all the provisions of the Railway Act with respect to tolls and tariffs. My submission here is that that is utterly impossible of performance. Without taking time to develop that point, may I refer you to the following sections of the Railway Act: 314, 316 (3), 317 (2), 328, 330, 331, 332 and 346.

I had intended to read certain sections from the Report of the Royal Commission to inquire into Railways and Transportation in Canada, 1931-32. But instead of reading the sections I will simply give you the numbers. They are 159 and 160, on pages 54 and 55, and 166 and 167 on page 56. May I mention, Mr. Chairman, that there was at least one high constitutional authority sitting as a member of that Commission, and that the opening words of section 167 are these:—

Under the constitution of Canada regulation of road transport falls within the exclusive jurisdiction of provincial authorities.

168, page 56. This I have already referred to. 169, page 57; 170, page 57. Then I go to page 94, the latter part of paragraph 6. May I mention that very briefly so far as buses are concerned. It gives the figures for the years referred to as to the percentage of passenger miles covered by buses. It is 1.7 per cent. Paragraph 9, page 95; paragraph 11, pages 95 and 96; paragraph 14, page 96; paragraph 22, page 98.

I am sorry to have taken so long, Mr. Chairman.

The CHAIRMAN: Does any person wish to ask Mr. Mason any questions?

Hon. Mr. GRIESBACH: Assuming there were no constitutional difficulties and the provinces were willing to co-operate, is there any merit in the proposal that motor traffic should be controlled by the Federal Government under standard regulations throughout the whole of Canada?

Mr. MASON: I am expressing now only my personal opinion. If one were starting de novo, personally I should want to see a system of Government under which all companies, insurance, and so on, and all matters of transit were under one administration.

Right Hon. Mr. MEIGHEN: Hear, hear.

Mr. MASON: But we are not starting de novo. We have an historical background covering many years, and we have a multitude of things that have become part and parcel of our heritage. Therefore having regard to all these considerations I must frankly say that I think it would be an utter mistake to take control of motor transportation at this day and hour by federal legislation.

The CHAIRMAN: We may change the Constitution altogether.

Mr. MASON: We are living under a federal system, and it has its disabilities, it is true. However, we have gotten on very happily so far, and certainly the time has not come when we should interfere with the autonomy of the provinces, and I submit that control of highways is one of the most marked features of provincial autonomy.

Hon. Mr. DONNELLY: Mr. Mason, you gave figures of the total revenue derived from motor traffic in the different provinces, and later you gave separate figures as to the revenue derived from passenger cars and from commercial trucks. Now, as a matter of practice in the northern part of the province of Ontario truckers as they go south buy their gas at public way stations. I am at a loss to know just how you separate the revenue from commercial trucks and that from passenger vehicles. Personally, I am of opinion that in your figures of the revenue derived from motor trucks you are away below the mark.

Mr. MASON: Senator Donnelly may be right, but may I say that the figures of revenue from licences are exact. The revenue from gas tanks has been estimated by methods with which the provincial Department of Highways is cognizant. Of course, they are only approximate.

Hon. Mr. DONNELLY: I do not think this Bill contemplates taking over control of passenger cars. It covers truck traffic. I think it would be well to have the revenue derived from truck traffic separated from the passenger car revenue. From personal experience I am disposed to think your figures are away below the mark.

[Mr. G. W. Mason.]

Mr. MASON: Yes. But these figures have been prepared by the Ontario Department of Highways. They are offered as being approximately correct.

Hon. Mr. DONNELLY: The greater portion of the revenue is derived from the gasoline tax. A great deal of the gasoline is purchased away from home, and naturally the truckers buy as much as they can in the southern part of the province where prices are low.

Mr. MASON: May I say, Mr. Chairman, if the matter comes in question, we have here representatives of the Canadian Automotive Transport Association. They live with the subject every day and can give any detailed information which members of the Committee may want in regard to it.

Hon. Mr. DANDURAND: Mr. Mason, let me call your attention to section 17:—

This Part shall not come into force on, or in respect of, any highway until proclaimed by the Governor in Council to be in force on, or in respect of, such highway.

Leaving aside the constitutional question, as you know, the Minister of Transport has stated that he would not suggest this part be proclaimed except with the co-operation of the provinces. Do you see any merit in the Bill as an attempt to effect harmony between the provinces and the federal authority?

Mr. MASON: In answer to that question, sir, it looks to me to be the wrong way to go about it. I think the proper way is to have a continuation of those meetings between the provinces and the Dominion in order to try to arrive at some scheme which would be effective, and then, that having been done, enact the necessary legislation. To enact legislation that, as I submit, is in so many respects bad, and then say that it may be or may not be proclaimed, is not, I think, the best method of procedure.

Hon. Mr. DANDURAND: But you know the object of the Bill itself is to bring under one control, if possible, the whole question of transport, which is a very large problem and which interests every taxpayer.

Mr. MASON: It is most serious from the point of view of those engaged in motor transport, that I should think they would feel very uncomfortable with any legislation, even though it be subject to proclamation. They would rather see it out now.

Hon. Mr. LAIRD: Are we to understand, Mr. Mason, that the provinces you represent will resist the Bill if passed?

Mr. MASON: My instructions are simply to attend here and state the position of the provinces for the reasons I have mentioned, and others which I should like to mention if I had more time.

Hon. Mr. LAIRD: You do not go so far as to say they will resist its operation?

Mr. MASON: I can only guess at what they would do. My guess would be that they would regard certain portions of this legislation as ultra vires, and there would have to be another reference to the Supreme Court, which reference ultimately would go to the Judicial Committee of the Privy Council, to determine whether or not the legislation was constitutional. I would hate to see the industry put in that position. You will remember we had to wait for twelve years before we got a definite judgment on insurance, and in the meantime no insurance company knew where it stood.

The CHAIRMAN: I think Mr. Routhier, representing Quebec, is the next gentleman.

Hon. Mr. GRIESBACH: Are you going to follow the practice of asking him not to go over ground already covered?

The CHAIRMAN: We desire to give this gentleman every latitude.

Mr. A. ROUTHIER, K. C. (representing the province of Quebec): Mr. Chairman, it is my intention to be as short as possible. To attain that end I am the bearer of a brief, which sums up the whole question from the angle of Quebec. I do not intend to read it. It states the position which might be taken either by the province of Quebec or any of the other provinces or by any aggrieved interests which might desire to rely on the constitutional aspects of the question. To shorten matters as much as possible, I might give the conclusion of this brief, which I propose to leave with the Chairman.

The CHAIRMAN: I am not trying to hamper you at all.

Mr. ROUTHIER: Not a bit. This is the conclusion of our brief:—

We submit that the proposed legislation with respect to transport by highway as defined in the Act is ultra vires of the Dominion Parliament:

(a) Because it falls exclusively under section 92 of the British North America Act heads already mentioned, and

(b) Because it cannot be claimed as falling expressly under any one of the heads specified under section 91 of the British North America Act.

It seems that little can be achieved by forcing through parliament ultra vires legislation which furthermore would unnecessarily duplicate the administrative machinery.

The large private interests advocating the proposed legislation might possibly turn their effort towards the legislature of the provinces in view of obtaining the co-operation to which reference is made in the case of *Montreal vs Montreal Street Railway* (1912 A.C. p. 333.)

The CHAIRMAN: What railway is that?

Mr. ROUTHIER: The Montreal Park and Island Railway. It ran out from the centre of the city to Cartierville.

In our brief we first make reference to the cardinal rules of interpretation adopted by the Privy Council, which may be very shortly summed up as follows: If the subject-matter of the legislation falls within section 92, and not under the head of section 91, then it becomes exclusively provincial in control. That is the first submission. It is only when there is a specified head that exists under section 91 that the question of paramount rights comes in. That is the nutshell of the argument.

Mr. O'CONNOR: I wish it was as simple as that.

Mr. ROUTHIER: I quite agree. I want to be frank. I am just making a submission on behalf of the province, and while of course this is not a judicial body, I submit it is very interesting for the Committee of the Senate to find out whether this Bill is litigious or not, and if it is highly litigious, as the possibilities are, I submit very respectfully that there would be little use of proceeding with the measure. As we submit in our conclusion, there would be little use in forcing through parliament ultra vires legislation. In order to find that out we think it would be well to cite the decisions rendered by the Privy Council, which show in what light this constitutional problem has been examined. Of course it is no secret that there has been wide divergence of opinion among the Lords of the Privy Council at times. Their decisions have not been unanimous. But it is really the whole constitutional problem upon which we rely; we are dealing more with trends than with actual decisions. We submit that this matter of control of the highways, even in alleged interprovincial trade, really falls again, in 90 per cent of its aspects, under provincial control—that is, private rights, private property, and so on. I have the brief here, and want to leave it with you.

The CHAIRMAN: All right.

Mr. ROUTHIER: I might, as a general proposition, possibly, call the attention of the committee to the more recent decisions of the Privy Council. There was that decision in the aeronautics case in 1932. Prima facie we might think there

[Mr. A. Routhier.]

is a strong analogy between air traffic and highway traffic, but I respectfully submit that this decision would not have application to highway traffic because the decision rests mainly on the interpretation of section 132 of the British North America Act. That is the main ground. We submit that the other points to that decision were only accessory and might not have come in if it had not been for section 132 of the British North America Act.

Right Hon. Mr. MEIGHEN: I have read the brief. Would it help the committee if I were to indicate that you take the ground that the first four lines of paragraph (i) on page 2 by themselves render the Act ultra vires? That is to say, as to transport by motor we cannot define interprovincial and foreign trade to mean the transport of goods between a place in one province and a place in another province? If I understand correctly, you say the dominion has not any jurisdiction over transportation from Montreal to Toronto without any change of lading at all.

Mr. ROUTHIER: That is the debatable point.

Right Hon. Mr. MEIGHEN: Your brief takes the ground that that of itself is ultra vires?

Mr. ROUTHIER: Yes.

I further refer to very recent decisions by the Privy Council, and, as a general proposition, might just read these.

Hon. Mr. DANDURAND: Is that the Montreal case?

Mr. ROUTHIER: The reference is to the weekly rest, industrial relations, and social employment insurance.

Right Hon. Mr. MEIGHEN: You have the Montreal case very fully set out.

Mr. ROUTHIER: As to the Weekly Rest in Industrial Undertakings Act, and the Limitation of Hours of Work Act, these statutes were declared ultra vires of the Dominion Parliament as affecting property and civil rights subject to the exclusive jurisdiction of the province. Lord Atkin says this:—

But the validity of the legislation under the general words of section 91 was sought to be established not in relation to the treaty-making power alone, but also as being concerned with matters of such general importance as to have "attained such dimensions as to affect the body politic," and to have "ceased to be merely local or personal and to have become matters of national concern." It is interesting to notice how often the words used by Lord Watson in *A. G. for Ontario v. A. G. for Canada* (1896) A.C. 348, have unsuccessfully been used in attempts to support encroachments on the provincial legislative powers given by section 92. They laid down no principle of constitutional law, and were cautious words intended to safeguard possible eventualities which no one at the time had any interest or desire to define.

Lord Atkin goes on to say:—

It is only necessary to call attention to the phrases in the various cases, "abnormal circumstances," "exceptional conditions," "standard of necessity" (*Board of Commerce case* (1922) 1 A.C. 191), "some extraordinary peril to the material life of Canada," "highly exceptional," "epidemic of pestilence" (*Sniders case* (1925) A.C. 396), to show how far the present case is from the conditions which may override the normal distinction of powers in sections 91 and 92.

This applies to the general power, I might say.

Lord Atkin further states:—

It must not be thought that the result of this decision is that Canada is incompetent to legislate in performance of treaty obligations. In totality of legislative powers, Dominion and provincial together, she is

fully equipped. But the legislative powers remain distributed and if in the exercise of her new functions derived from her new international status she incurs obligations they must, so far as legislation be concerned when they deal with provincial classes of subjects, be dealt with by the totality of powers, in other words, by co-operation between the Dominion and the province. While the ship of state now sails on larger ventures and into foreign waters she still retains the water tight compartments which are an essential part of her original structure.

Right Hon. Mr. MEIGHEN: Very fine language, but very absurd.

Mr. ROUTHIER: I am not discussing or commenting, I am just citing.

On the Employment and Social Insurance Act we find the following dictum:—

In other words, Dominion legislation even though it deals with Dominion property, may yet be so framed as to invade civil rights within the province; or encroach upon the classes of subjects which are reserved to provincial competence. It is not necessary that it should be a colourable device or a pretence. If on the true view of the legislation it is found that in reality in pith and substance the legislation invades civil rights within the province or in respect of other classes of subjects, otherwise encroaches upon the provincial field, the legislation will be invalid. To hold otherwise would afford the Dominion an easy passage into the provincial domain. In the present case, their Lordships agree with the majority of the Supreme Court in holding that in pith and substance this Act is an insurance Act affecting the civil rights of employers and employed in each province and as such is invalid.

The last reference which might have a bearing is the one on the Natural Products Marketing Act, and the situation under that Act is near to the one under the present legislation. The Privy Council has practically confirmed verbatim the decision of Chief Justice Duff on behalf of the Supreme Court. I do not think there is any necessity for me to go into that in detail. The memorandum is here. I have left copies with Hon. Mr. Dandurand and with Hon. Mr. Meighen.

This is not final. I might say it is stating as strongly as possible the prima facie case on the constitutional aspect of the question.

The CHAIRMAN: Would you like that brief to go on record?

Mr. ROUTHIER: Oh, yes. I submit this brief on behalf of the province of Quebec, and the other provinces at the same time, and I need only confirm what has been said by Mr. Mason. He has covered the ground in such a thorough manner that there is no need to go over the same ground, again. I thank you, gentlemen.

Hon. Mr. LAIRD: What will be the attitude of the province of Quebec towards this Bill if it goes through?

Mr. ROUTHIER: To use the words of my confrere, Mr. Mason, it is only guesswork. We have general instructions to point out the objection on constitutional lines. That is why the brief is reasoned in that manner. The province is protecting the right of which it is a sort of trustee; at the same time I think it will protect the right of prospective litigants who would carry the matter before the Supreme Court or the Privy Council if they felt aggrieved.

The CHAIRMAN: It is questionable, is it not, whether the province could give away its right?

Mr. ROUTHIER: It has been decided a number of times that it could not. Therefore there is an obligatory trust, and we are bound to protect those rights.

[Mr. A. Routhier.]

The CHAIRMAN: Until the situation may be changed.

Mr. ROUTHIER: Possibly. In the meantime I must say—this is a personal opinion, humbly and respectfully offered—I submit as far as dealing with questions really affecting more than one province or the Dominion and a province, there are very many things which might be done by periodical conferences. Many differences, I think, could be ironed out in that way. As a matter of fact, I think that is the trend, and so long as differences can be ironed out by conferences there does not seem to be any immediate need for legislation.

In Re: Bill B of the Senate of Canada proposing to establish a Board of Transport Commissioners for Canada with authority in respect of transport by railways, ships, aircrafts and motor vehicles.

MEMORANDUM OF THE PROVINCE OF QUEBEC

I. SUMMARY OF THE PROPOSED FEDERAL LEGISLATION

Bill B of the Senate as drafted, proposes:—

(1) To transform the actual Board of Railway Commissioners into a Board of Transport Commissioners to be clothed with additional powers hereafter mentioned (Part I of this act).

(2) To give the same Board (and to the Minister of Transport for licensing purposes) in addition to its actual jurisdiction over federal railways, a further exclusive control in Canada.

(a) Over all ships (Part II of this act);

(b) Over all aircraft (Part III of this act).

The same bill however, we submit goes one step too far and thereby invades exclusive jurisdiction of the Province of Quebec under British North America Act when it proposes to give the same Board (and to the Minister of Transport for licensing purposes) an exclusive control over all motor vehicles engaged in the transport, for hire or reward, of goods or passengers in interprovincial or foreign trade or upon highways belonging to the Dominion. (Part IV of this act).

This Part IV of the Act forms the main basis of objection from the Province of Quebec, which however reserves its right to invoke other objectionable features of the same Bill, as occasion may require.

II. ULTRA VIRES OF THE PROPOSED LEGISLATION ON AUTOMOBILE TRANSPORT BY HIGHWAY AS DEFINED BY SECTION 2 (u) OF THE ACT

(1) Rules for construction of sections 91 and 92 of the British North America Act.

Toronto Electric Commissioners vs. Snider, 1925, Appeal Cases, page 396, and at page 406.

Before referring to these grounds of judgment their Lordships, without repeating at length what has been laid down by them in earlier cases, desire to refer briefly to the construction which, in their opinion, has been authoritatively put on ss. 91 and 92 by the more recent decisions of the Judicial Committee. The Dominion Parliament has, under the initial words of s. 91, a general power to make laws for Canada. But these laws are not to relate to the classes of subjects assigned to the Provinces by s. 92, unless their enactment falls under heads specifically assigned to the Dominion Parliament by the enumeration in s. 91. When there is a question as to which legislative authority has the power to pass an Act, the first question must therefore be whether the subject falls within s. 92. Even if it does, the further question must be answered, whether

it falls also under an enumerated head in s. 91. If so, the Dominion has the paramount power to legislate in relation to it. If the subject falls within neither of the sets of enumerated heads, then the Dominion may have power to legislate under the general words at the beginning of s. 91.

In short, three alternative situations may arise:—

- (a) The subject falls within section 92 and not under a head expressly determined in section 91. The province then alone has jurisdiction;
- (b) The subject falls within section 92 and falls also expressly under an enumerated head of section 91. Then the Dominion obtains paramount right of legislation;
- (c) The subject falls within none of the sets of heads enumerated in section 92 and or section 91. Then the Dominion has a general power of legislation.

(2) The subject of the proposed legislation (Transport by highways as defined by the Act) falls expressly within section 92 of the British North America Act head 13, head 10 (first part) and by way of consequence under heads 2, 9, 8 and 16 of the same section.

(A) Head 13—Property and civil rights in the province—

An important function of a Legislature is to make laws as to Transport. In all its material incidents, transport is a matter falling within Section 92, head 13.

(Aa) The automobile (car, truck or bus), is property physically situate within the province, when stationary or moving anywhere within the province. When the automobile moves outside of the province, it may become during that time only property in another province or country. With this latter situation we are however little concerned;

(Ab) This automobile has a legal entity absolutely distinct from that of the road or highway over which it runs. In this respect, the automobile essentially differs from cars legally identified with the railroad (road-bed, right of way and rails) which might belong to a federal railway company. If this railway happens to connect two provinces, or runs outside of the province, into a foreign country, it does so physically and along its entire length, while the automobile can never be in two provinces or countries at the same time;

(Ac) All contracts made in the province between carriers and clients as to movement of goods or persons create civil rights within the province.

As to civil rights in the province, see:—

Cameron, Vol. I, p. 111,

“ Vol. II, p. 41.

Citizens Insurance Co. vs Parsons

7 Appeal Cases, p. 96.

Attorney General for Ontario vs Reciprocal Insurers, 1924, A.C. 328.

Toronto Electric Commissioners vs Sniders, 1925 A.C. 396.

(B) Head 10, (first part). Local works and undertakings—

(Ba) The legal domicile of the Quebec person or concern which acts as an automobile carrier is necessarily situated within the Province of Quebec;

(Bb) This same person or concern is housed, taxed, and municipally protected or otherwise insured within the limits of the same province, and as such is there localised.

(Bc) This person or concern is not a work and is no more an undertaking.

(Bd) It would not cease to be local even if it were considered as a work or undertaking.

[Mr. A. Routhier.]

(Be) The service performed by such person or concern cannot be considered as a work or works because it is not a physical thing. See *Montreal vs Montreal Street Railway* 1912, A.C. 333, where at page 342 Lord Atkinson says, "These works are physical things, not services."

This decision is also of particular interest in that it has negated an attempt to justify federal control on through traffic over a provincial railway.

(Bf) We submit that this same service cannot in any way be considered in itself as an undertaking specially in view of the restrictive interpretation which must of necessity attach to the exceptional proviso contained in head 10 of section 92.

(Bg) Even if, *ab absurdo*, this service could be considered as an undertaking in itself, this same undertaking would only incidentally connect one province with another, because we must take into account the fact that this same service could also on a very large scale carry passengers or goods from one point of the province to another point of the same province.

- (C) Head 2 (Direct taxation for provincial purposes)
- Head 9 (Licences for raising of municipal or provincial revenue)
- Head 8 (Municipal institutions and exercise of their powers)
- Head 16 (Matters of a merely local or private nature).

If it be admitted that transport by highway already falls under head 13 and under the first part of head 10 of section 92 of the B.N.A.A., it must also fall by way of consequence under the other heads just mentioned.

III. The subject of the proposed legislation cannot be considered as expressly falling in any one of the heads of section 91 of the B.N.A. Act.

(A) Head 2, Regulations of Trade and Commerce.

Jurisprudence of the higher tribunals negatives any attempt to bring under this particular head the subject of the proposed legislation.

(Aa) 1921, P.C. *The Board of Commerce Act* 1922 A.C. (Vol. I), p. 191.

(Ab) 123, P.C. *Fort Francis Pulp vs Manitoba Free Press* 1923 A.C. 695.

(A *contrario*)

(Ac) 1925 S.C.C. *Rex vs Eastern Terminal Elevator* 1925, C.S.C. 434.

(Ad) 1926 S.C.C. *Rex vs Collins* (1926) 4 D.L.R. 548.

(B) Head 7. Militia, military and naval service and defence.

Nothing whatsoever in the proposed legislation can come under this head.

IV. MORE RECENT DECISIONS OF THE PRIVY COUNCIL

(A) *Reference re: Regulation and Control of Aeronautics in Canada* 1932, A.C. p. 54.

"The whole field of legislation in relation to aerial navigation in Canada belongs to the Dominion.

Having regard to (a) s. 132 of the British North America Act, 1867, which gives to the Parliament and Government of Canada all powers necessary or proper for performing the obligations of Canada, or of any Province thereof, under treaties between the British Empire and foreign countries, (b) the fact that an international Convention of 1919, a treaty under s. 132, covered almost every conceivable matter relating to aerial navigation, and (c) the further powers of the Parliament of Canada under s. 91, heads 2 (trade and commerce), 5 (postal services) and 7 (military and naval services), substantially the whole field of legislation in regard to the subject belongs to the Dominion. Any small portion not vested in the Dominion by specific words in the Act of 1867 is not so vested in the Provinces, and necessarily belongs to the Parliament of Canada under its authority to make laws for the peace, order and

good government of Canada. Further, the subject of aerial navigation, and the fulfilment of Canadian obligations under s. 132, are matters of national interest and importance; aerial navigation is a class of subject which has attained such dimensions as to affect the body politic of the Dominion.

Consequently, the Dominion powers under s. 132 in relation to the obligations under the Convention were exclusive powers, and the Parliament of Canada had authority to enact the Aeronautics Act (R.S. Can. 1927, c. 3) s. 4, and the Air Regulations, 1920, respecting the licensing of pilots, navigators, etc., and the regulation and licensing of all aircraft, aerodromes and air stations."

Although a prima facie analogy may exist between transport by air and transport by highway, the decision rendered in the above case can have no bearing on the present situation.

(Aa) Because this decision rests fundamentally upon the application of section 132 of the B.N.A. Act, which is here entirely out of question.

(Ab) Because other accessory findings or dicta in this same decision are substantially negated by the more recent decisions rendered by the Privy Council in the references hereinafter referred to.

(B) Reference *re*: Weekly Rest in Industrial Undertakings Act—The Limitation of hours of work act.

These statutes were declared ultra vires of the Dominion parliament as affecting property and civil rights subject to the exclusive jurisdiction of the province.

Lord Atkin has the following dicta:—

But the validity of the legislation under the general words of section 91 was sought to be established not in relation to the treaty making power alone, but also as being concerned with matters of such general importance as to have "attained such dimensions as to affect the body politic," and to have "ceased to be merely local or personal and to have become matters of national concern." It is interesting to notice how often the words used by Lord Watson in *A.G. for Ontario v. A.G. for Canada* (1896) A.C. 348, have unsuccessfully been used in attempts to support encroachments on the Provincial legislative powers given by section 92. They laid down no principle of constitutional law, and were cautious words intended to safeguard possible eventualities which no one at the time had any interest or desire to define."

Lord Atkin goes on:—

It is only necessary to call attention to the phrases in the various cases, "abnormal circumstances," "exceptional conditions," "standard of necessity" (*Board of Commerce case* (1922) 1 A.C. 191) "some extraordinary peril to the material life of Canada," "highly exceptional," "epidemic of pestilence" (*Sniders case* (1925) A.C. 396), to show how far the present case is from the conditions which may override the normal distinction of powers in sections 91 and 92.

Lord Atkin in the last paragraph of the judgment, further states:—

It must not be thought that the result of this decision is that Canada is incompetent to legislate in performance of treaty obligations. In totality of legislative powers, Dominion and Provincial together, she is fully equipped. But the legislative powers remain distributed and if in the exercise of her new functions derived from her new international status she incurs obligations they must, so far as legislation be concerned when

[Mr. A. Routhier.]

they deal with provincial classes of subjects, be dealt with by the totality of powers, in other words by co-operation between the Dominion and the Provinces. While the ship or state now sails on larger ventures and into foreign waters she still retains the water tight compartments which are an essential part of her original structure.

(C) Reference *re*: Employment and social insurance.

The act is declared ultra vires of the federal parliament.

It is found among other things that the act does not deal with any special emergencies.

Further on, in the decision, we find the following dictum:—

In other words, Dominion legislation even though it deals with Dominion property, may yet be so framed as to invade civil rights within the province; or encroach upon the classes of subjects which are reserved to provincial competence. It is not necessary that it should be a colourable device or a pretence. If on the true view of the legislation it is found that in reality in pith and substance the legislation invades civil rights within the province or in respect of other classes of subjects, otherwise encroaches upon the provincial field, the legislation will be invalid. The hold otherwise would afford the Dominion an easy passage into the provincial domain. In the present case, their Lordships agree with the majority of the Supreme Court in holding that in pith and substance this Act is an insurance Act affecting the civil rights of employers and employed in each Province and as such is invalid.

(D) Reference *re*: Natural Products Marketing Act.

We understand the Privy Council has adopted the views of the Chief Justice of the Supreme Court, Sir L. P. Duff, and has ordered this Act ultra vires of the Dominion, thus setting aside the argument of Trade and giving additional force to the previous Board of Commerce Case. (This judgment of Chief Justice Duff is contained at 1936 C.S. Reports, p. 398.)

V. CONCLUSION

We submit that the proposed legislation with respect to transport by highway as refined in the act is ultra vires of the Dominion Parliament:—

(a) Because it falls exclusively under section 92 of the B.N.A. Act heads already mentioned, and

(b) Because it can not be claimed as falling expressly under any one of the heads specified under section 91 of the B.N.A. Act.

It seems that little can be achieved by forcing through Parliament ultra vires legislation which further more would unnecessarily duplicate the administrative machinery.

The large private interests advocating the proposed legislation might possibly turn their effort towards the Legislature of the provinces in view of obtaining the co-operation to which reference is made in the case of *Montreal vs Montreal Street Railway* (1912 A.C. p. 333.).

Respectfully submitted,

ADOLPHE ROUTHIER,

For the Attorney General of the Province of Quebec.

OTTAWA, February 18th, 1937.

SCHEDULE

Existing Quebec Legislation and regulations which, as to their future administration will become revolutionized if bill B is adopted.

The Motor Vehicle Act (R.S.Q. 1925, c. 35 and amendments);

The Public Service Commission Act (R.S.Q. 1925, c. 17 and amendments) and ordinances adopted thereunder;

The Cities and Towns Act and other city charters and by-laws or ordinances adopted thereunder as to motor vehicles;

The Workmens' Compensation Act;

The Provincial Revenue Act (R.S.Q. 1925, c. 22, and amendments);

The Treasury Department Act (R.S.Q. 1925, c. 20, and amendments);

The Corporation Tax Act (R.S.Q. 1925, c. 26, and amendments).

(This list is not exhaustive).

The CHAIRMAN: Now we are to hear from Mr. Dickson, Deputy Attorney-General of New Brunswick.

Mr. J. B. DICKSON, Deputy Attorney-General, New Brunswick: Mr. Chairman and gentlemen of the Senate, the Government of the province of New Brunswick is opposed to the Bill as at present submitted, in so far as it purports to legislate in respect of an undertaking for the transport of goods from one point within the province to another point within the province. That is along the same line as the submission made by Mr. Mason, when he addressed the Committee.

Paragraph (i) of section 2 of the Bill provides:—

“interprovincial or foreign trade” means the transport of goods or passengers between a place in one province and a place in another province, or between a place in Canada and a place outside of Canada.

In regard to that we are not raising any constitutional question, but rather in regard to the last five lines of the paragraph, which read:—

—and shall include any transport of goods wholly within a province which forms part of a through movement of goods, whether or not on one bill of lading, with another carrier when the points of origin or destination are in different provinces or in Canada and a foreign country.

We submit, in so far as that legislation is concerned, that it is an infringement of the legislative authority of the provinces.

By section 91 of the British North America Act the Parliament of Canada is authorized to make laws for the peace, order and good government of Canada. And that section says:—

It is hereby declared that (notwithstanding anything in this Act) the exclusive Legislative Authority of the Parliament of Canada extends to all Matters coming within the Classes of Subjects next hereinafter enumerated; that is to say,—

and, inter alia, is paragraph 29, which reads:—

Such Classes of Subjects as are expressly excepted in the enumeration of the classes of subjects by this Act assigned exclusively to the Legislatures of the Provinces.

[Mr. J. B. Dickson.]

Section 92 defines the classes of subjects which are assigned exclusively to the Provinces. It reads:—

In each province the legislature may exclusively make laws in relation to matters coming within the classes of subjects next hereinafter enumerated; that is to say,—

and, *inter alia*, is clause 10:—

Local works and undertakings other than such as are of the following classes,—

(a) Lines of steam or other ships, railways, canals, telegraphs, and other works and undertakings connecting the province with any other or others of the Provinces, or extending beyond the limits of the province;

(b) lines of steamships between the province and any British or foreign country;

Such works as, although wholly situate within the province, are before or after their execution declared by the Parliament of Canada to be for the general advantage of Canada or for the advantage of two or more of the provinces.

Now, a transport is an undertaking as described in clause 10 of section 92, and it is either a local undertaking and within the jurisdiction of the province or it is covered by the exceptions and thus comes under the exclusive jurisdiction of the Parliament of Canada. It does not fall within the exceptions in paragraph (a) and (b). The only way it could be brought within the jurisdiction of the Parliament of Canada is by an express declaration under the last paragraph of section 10.

Right Hon. Mr. MEIGHEN: Do you think that a transport is such an undertaking as could be declared a work for the general advantage of Canada, that is to say a transport as distinct from the road over which it is transported?

Mr. DICKSON: No, I do not think so.

Hon. Mr. FARRIS: It is limited to works, anyway.

Right Hon. Mr. MEIGHEN: Yes.

Mr. DICKSON: This anticipates that the Parliament of Canada shall only make such declaration with respect to a work or undertaking which is for the general advantage of Canada or for the advantage of two or more provinces. It is not anticipated that Parliament shall act arbitrarily and say for some purpose, such as to help out the railways, that a certain work will be declared for the general advantage of Canada. Now, without a declaration under that last paragraph that I read, which is necessary to give the Parliament of Canada jurisdiction under any circumstances, in my opinion, an undertaking such as I have described and such as is described in the last few lines of paragraph (i) of section 2 of the Bill, is a local undertaking. I cannot see how the fact that goods are to be transhipped out of the province can have any effect whatever on the work and undertaking of the transport. The transport might be two different shipments, on two different bills of lading, and I cannot see how that has any effect, or how the Parliament of Canada has any jurisdiction to enact this legislation.

If we interpret the words "works and undertakings" to mean the physical works as distinct from the service, and if it is said that transport by highways cannot be separated from motor carriers, that transport by water cannot be separated from ships, that transport by rail cannot be separated from railways, then the whole Act is *ultra vires*. That is, if roads are the undertakings—I am not saying they are—the whole thing is *ultra vires*, because the jurisdiction is exclusively in one place or the other, and we have the jurisdiction over roads. Now, gentlemen, I am not going to labour the constitutional end. I think I have set out clearly what our contention is in connection with that.

We are opposed to the Bill on the ground that it will mean a very great hardship to a large number of our citizens, if it is administered to the full extent of the authority given to the Minister. By section 14 the licensing extends to both commercial and private vehicles. In our province we have a great many men who are dependent for their livelihood upon transporting goods from the Canadian side to the American side, for hire. There is authority to extend the provisions of this measure to all these men. If the provisions were so extended, all these men would have to make application to the Transport Board at Ottawa for a licence permitting them to carry on their trade as carriers. That would put the men to a great deal of expense, more expense than they can afford. Mostly they are working men. If their application were opposed in any way they would not have the means to fight the thing out, nor would it pay them to do so, in order to obtain their licence. If the Bill goes into effect it will result in strangling a great deal of business. Let us take the case of a lumberman who trucks lumber from his mill to the sea coast by his own trucks. He would have to obtain a licence from Ottawa before he could undertake that work. He is a private carrier. He has to transport his own lumber for a distance, say, of five or ten miles to the sea coast, and he would have to operate under whatever rules and regulations were put into force, such as to loads, and so on.

Probably our chief objection to this Bill is on the ground of its absolute injustice to the Provinces. We have expended hundreds of thousands of dollars in the building of roads and bridges.

Hon. Mr. LEGER: Millions.

Mr. DICKSON: Yes, millions. Now the Federal Government proposes to license transports to carry goods over these roads. So far as we can see, the Federal Government intends to collect whatever revenue is forthcoming, without contributing anything towards upkeep of the roads.

Here is another consideration. The roads, and particularly the bridges, are built to certain standards set by our Department of Public Works, which knows what traffic they are suited for. But according to this Bill, the Transport Board would prescribe what loads could be carried. But that Board has no knowledge of what loads our bridges will carry; it has no knowledge regarding the construction of our roads. By granting a licence, the Board would be saying in effect, "Go ahead. If you carry a load that any bridge cannot stand, that will be the hard luck of the poor province." Then we have down there frost conditions in the spring, when our own regulations prohibit trucks carrying certain loads to be on the roads at all. We understand the conditions ourselves. It used to be that in the spring of the year, when frost was coming out of the ground, we would not allow motor vehicles on the roads at all, but in later years we have permitted motor vehicles carrying loads within a certain limit to operate; but if the weight is beyond that limit, the vehicles are prohibited from using the roads. But under this Bill the Transport Board could license a carrier to operate on those roads and carry loads up to a limit set by the Board. We consider it most unjust that our roads should be regulated and handled in that manner, roads which we have built and in which we have invested a very large sum of money. It is true the Federal Government has contributed to some extent towards certain of our highways.

Hon. Mr. COTE: Where do you see in the Bill any powers to regulate the load, for instance?

Mr. O'CONNOR: It is the trade that is to be licensed.

Mr. DICKSON: Well, there will have to be regulations regarding it, will there not?

Mr. O'CONNOR: As I understand the Bill—I am concerned with the phrasing only—it would apply to nothing but the trading, the trading in transport.

[Mr. J. B. Dickson.]

Right Hon. Mr. MEIGHEN: If the legislation were valid and the Federal Government gave a licence to a truck permitting it to carry a certain weight, could the province come in and prohibit that truck from running?

Mr. O'CONNOR: I do not think the legislation would be read that way. If it were so read, it would probably be said to be ultra vires. One of the ways of reading an Act is with the view that Parliament shall not be considered as having intended to enact ultra vires legislation, unless you are absolutely driven to the conclusion that it did so intend and so exceeded its powers.

Right Hon. Mr. MEIGHEN: That used to be so.

Mr. VARCOE: I think the answer to Senator Coté's question is contained in section 15, paragraphs (a) and (b). I think it was intended that the Board should prescribe the load.

Mr. DICKSON: Yes.

We consider that the Bill would not be feasible in operation, for it would mean our having two separate bodies controlling traffic over the same highways. I am not going into that subject at any further length; I simply mention it as one of our objections. I think the matter was gone into fully by Mr. Mason, whose views are the same as mine.

I expressed before this Committee on Tuesday last my objections to Part VI, Agreed Charges, and I am not going to say anything more about that matter. What I said appears in the proceedings for Tuesday.

I am informed that at the conference between the Federal and Provincial Governments in December, 1935 it was suggested that conferences should be held later with a view to working out by co-operation some method of regulating motor carrier traffic over highways generally throughout Canada. The Government of the Province of New Brunswick realizes that motor traffic must be regulated. I think if the suggestion is carried out, if the Federal and provincial authorities get together and try to work out some satisfactory solution of the problem, you will find the Government of my province only too ready to co-operate. But the method provided by the present Bill must be more or less of coercion, and that will not help towards bringing the provinces into line towards a solution of the question of transportation by motor vehicles. The Government of the province of New Brunswick is opposed to the Bill as it now stands.

Hon. Mr. WEBSTER: What about other features in the Bill, such as transport by water?

Mr. DICKSON: I spoke about that on Tuesday, Senator Webster.

Mr. VARCOE: Mr. Dickson, would your views be modified to any extent if the last five lines of paragraph (i) of section 2 were omitted?

Mr. DICKSON: I think you would be on safer ground. I should not like to say more than that.

Right Hon. Mr. MEIGHEN: The ground would be so small that there would be hardly room to turn around.

Mr. O'CONNOR: Personally I was impressed by what you were saying as to the inconvenience. But suppose there were a conference and the provinces agreed to execute for the Dominion, what then?

Mr. DICKSON: I do not think that would hardly be possible. You would want one control.

Mr. O'CONNOR: There would be one control, for the provinces would be acting as agents for the Dominion. Would that be feasible?

Mr. DICKSON: I should not like to express an opinion without giving the matter considerable thought.

Mr. O'CONNOR: What I have in mind is whether we could control under one agreement, if the provinces were appointed as our agent.

Hon. Mr. LAIRD: May I make a suggestion to the leader of the Government? If there is going to be a conference with the provinces, why not have it now, before the Bill is further carried or rejected?

Hon. Mr. DANDURAND: Officers of the Department of Transport and legal experts will be examining into the situation and into the representations that have been made to this Committee, and they will be in a position to give us their views, along with their answers to the many objections that we have heard, on Tuesday next.

Hon. Mr. ROBINSON: Mr. Dickson, somebody raised this point—I do not think it is very important—whether the Bill would interfere with log driving on the St. John river.

Mr. DICKSON: I heard an intimation the other day by a member of the Government that it would.

The CHAIRMAN: Now we are going to hear from Hon. Mr. MacMillan, of Nova Scotia.

Hon. A. S. MACMILLAN: Minister of Highways, Province of Nova Scotia:

Mr. Chairman and honourable gentlemen, it is with a good deal of temerity that I rise to speak after listening to the lawyers who have preceded me, for I am not of their profession. Sometimes I thank God that I am not. I do not propose for one minute to discuss the legal side of this question, or the British North America Act. I do not know anything about legal matters more than the ordinary individual picks up in the course of time, and I am told by my colleagues that I often break the law myself. I have not prepared a brief; I came to Ottawa on other business and did not expect to attend these hearings at all.

Perhaps the position of Nova Scotia is rather unique. We are almost isolated, except for a narrow strip of land, and have no direct communication with the other provinces outside New Brunswick and Prince Edward Island, by water. In looking over this Bill I just wondered what the real intention of it is. In the first place I presume it is to standardize traffic between the various provinces; and, in the second place, to standardize rates as between railways and motor carriers. I may be wrong, but I think these are the two main objects of the measure. And now, I have nothing to say against railways; I believe we should do everything we can to help our railways along. On the other hand, the railways must remember that a great deal of the traffic they are getting to-day comes from motor trucks. In Nova Scotia, for instance, the railways are getting considerable traffic that they would not get, under present conditions if we did not have motor trucks. Nova Scotia does a large lumbering business. Last year we shipped to the British market more lumber than any other province in Canada except British Columbia. That lumber has, to a large extent, to be brought to the railways by motor truck, for the railways are too far away to permit us to ship by them exclusively. Through the greater part of our province we have only one railway. One of my own companies is manufacturing lumber and trucking it twenty-two miles to the railway. It is absolutely impossible to haul it that distance by teams, at the present price of lumber, so that traffic would be lost to the railways if it were not for trucks.

Some mention was made by the last speaker about conferences between the Dominion and the provinces. I think I attended the first conference on transportation that was held here, and I expected there would be several other conferences. Perhaps if there had been we would have arrived at some conclusions with respect to the matters dealt with by the Bill. I consider a Bill of this kind is rather premature until the provinces and the Dominion have arrived at some conclusions on the whole subject. I do not think you can force

[Hon. Mr. MacMillan.]

the provinces in a thing of this kind—I know nothing about the legal side of question. If you try, you will have a little war on your hands. The only way the question can be settled is by co-operative arrangement between the provinces and the federal authorities.

In the Province of Nova Scotia I take the ground, as I always have, that it is not a question of rates as between the truck and the railway. My view has always been that the trucks and motor vehicles generally must pay for the use they are making of our highways, they must pay the whole shot. I am a firm believer in measured service. I believe people should pay for what they get. In the Province of Nova Scotia I am trying to build up a rate structure that will enable us to get a return from our motor highways, a return that will enable us to keep the highways up to a good standard and to pay interest and sinking fund on the capital outlay.

I do not know whether the Dominion can take over our roads, but I would say this. If the Minister of Transport, on behalf of the Government of Canada, wishes to take over the roads of our province, and will give us a guarantee to maintain them and to carry out the policy and program of the Nova Scotia Government, we are willing to hand the whole thing over and let the federal authorities run it. We will be glad to do that. Pay us, first, for our investment.

Hon. Mr. LAIRD: You want your price.

Hon. Mr. MACMILLAN: Pay us for our investment in our roads, give us a guarantee that they will be properly maintained, and that our program and policy will be carried out with regard to paving and further road construction. If we get that guarantee you can take our roads over to-morrow.

A MEMBER: A safe bet.

Hon. Mr. MACMILLAN: Someone says it is a safe bet. I think it is a safe bet.

Hon. Mr. BEAUBIEN: Would you like a little subsidy besides?

Hon. Mr. MACMILLAN: No. We are somewhat different from the western provinces; we are pretty well able to get along ourselves. We like as far as possible to stand on our own feet. But I do think in all seriousness that we will strenuously object to the Government of Canada collecting license fees from motor trucks coming into the province of Nova Scotia, unless the federal authority is willing to contribute to the upkeep of our highways. We will fight that to the last ditch you may rest assured.

I do not think you can expect to collect revenue from the transportation companies that use our highways and give us nothing in return.

Hon. Mr. COTE: That is not the purpose of the Act.

Hon. Mr. MACMILLAN: I am not so sure.

Hon. Mr. COTE: It is to regulate tolls.

Hon. Mr. MACMILLAN: I have said that, in the first instance, undoubtedly one of the purposes is to regulate tolls, and the other is to unify rates as between the railways and the motor transportation companies. I think that is correct.

Hon. Mr. COTE: And water.

Hon. Mr. MACMILLAN: And water rates as well.

I am not going to take up any more of your time. There are a number of other things I should like to talk about, but as I am not able to discuss the legal situation, I had better leave that alone.

I can say for the Province of Nova Scotia that we are willing to meet the Minister of Transport at any time and endeavour to co-operate with him as far as the unifying of rates is concerned, and also as to making the necessary regulations. But I do not think you are going about it in the right way by attempting to force something—I am reluctant to use extravagant language—by attempting, I say, to force something down our throats without our permission. That is my attitude.

Hon. Mr. DANDURAND: The minister said it was not his intention to do so.

Hon. Mr. MACMILLAN: Well, he should have said so in the Bill. With respect to that, in this parliament as well as in the provincial legislatures ministers change quite often, and their policies may change with the change of governments.

Right Hon. Mr. MEIGHEN: You do not want a sword hanging over your head.

Hon. Mr. MACMILLAN: No. I do not think anybody wants to be placed in that position, and I do not think our little province wishes to be put in that position.

The CHAIRMAN: Thank you, Mr. MacMillan.

I understand there are several gentlemen ready to present briefs on behalf of automotive transport associations and companies.

Hon. Mr. FARRIS: Mr. Chairman, before those private interests are called, may I mention that the Hon. Mr. Sloan, Attorney-General of British Columbia, is here and would like to address you. He will only be a minute or two.

The CHAIRMAN: On this same subject?

Hon. Mr. FARRIS: Yes.

The CHAIRMAN: Very well.

Hon. GORDON SLOAN, K.C. (Attorney-General, British Columbia): Mr. Chairman, I have nothing in detail to offer at the moment on the subject-matter of the Bill. I have only to say that in my view the manifest and many difficulties that will arise from the duplication of Dominion and provincial control of our traffic will lead unquestionably to confusion of administration. I am very much in accord with Mr. Mason's analysis of the Bill, and in many of the observations which he made I think he has fully covered the subject in that respect.

In British Columbia we exercise a comprehensive control by legislation and regulations passed thereunder over passenger and freight traffic over our highways. We carry that out by means of a licensing system. We control rates of fares, routes and time schedules. We also prescribe regulations in regard to safety and various other matters, including compulsory insurance for carriers.

If it will be of any interest to the Committee, I will file a copy of the British Columbia Act and the regulations made thereunder.

Hon. Mr. DANDURAND: Have you any truck business between British Columbia and Alberta?

Hon. Mr. SLOAN: Yes, sir.

The CHAIRMAN: And the United States?

Hon. Mr. SLOAN: Yes, and the United States. On the general principles underlying the Bill and the constitutional aspect, I do not think I can add anything usefully to what has been said by those who have preceded me. I think their submissions express our views as thoroughly as I could attempt to do at the moment.

The CHAIRMAN: The Committee is adjourned until immediately after the rising of the Senate this afternoon.

The Committee was adjourned accordingly.

AFTERNOON SITTING

The Standing Committee on Railways, Telegraphs and Harbours, to whom was referred Bill B, an Act to establish a Board of Transport Commissioners for Canada, with authority in respect of transport by railways, ships, aircraft and motor vehicles, resumed this day at 3.30 p.m.

The CHAIRMAN: Now, what have we?

The CLERK of the COMMITTEE: Mr. Irving S. Fairty, K.C., is on the list.

Mr. IRVING S. FAIRTY, Grey Coach Lines, Limited, Toronto.

The CHAIRMAN: Where do these coaches run?

Mr. FAIRTY: They radiate from Toronto, sir, to a variety of places. The Grey Coach Lines are a subsidiary of the Toronto Transportation Commission. We have the largest fleet of coaches in the province of Ontario. We have no interprovincial traffic, but we run into Buffalo for three-quarters of a mile, and over the border into New York for half a mile.

The CHAIRMAN: You are international.

Mr. FAIRTY: We are international.

Hon. Mr. GILLIS: Do you operate in Western Canada?

Mr. FAIRTY: Oh, no. Our permit at the present time, rightly or wrongly, reads "To Buffalo and to Niagara Falls, New York." I imagine this is wrong because the authority of a province does not extend beyond its boundaries.

Hon. Mr. LAIRD: Do you carry duplicate plates?

Mr. FAIRTY: We carry duplicate plates as far as those buses are concerned.

The CHAIRMAN: Do you settle with the Commission on the other side?

Mr. FAIRTY: We have to get their plates and pay their licence fee.

The CHAIRMAN: Then you have a right to run there.

Mr. FAIRTY: We have a right to run there, yes.

I want to make it clear, first of all—and I think I am the first to appear for purely motor passenger transport—that we consider ourselves a completely separate proposition from the trucks. The problems of the trucks are entirely different from those of buses and coaches. The buses and coaches, as far as regulation and control are concerned, have been completely and absolutely absolved by the Duff Commission. Then, inasmuch as there may be a short cut in this matter, especially after what was said this morning by Mr. O'Connor, that duality of control is wrong, and if the great bulk of the work is done by the provinces, would there be any objection to them acting as the agents of the Dominion?

Mr. O'CONNOR: That was just a personal question.

Mr. FAIRTY: Yes. I would say certainly, and I think I could say for the buses of Canada that there would be.

Before I go into the question of the Bill I want to deal with one or two matters in order to clear the ground. In the first place, as I say, in the province of Ontario and in the other provinces, the buses are completely and fully controlled from the standpoint of the public. There is a list of 75 matters in which we are controlled by the province of Ontario. I do not think even the railways can go that far. In the second place, we have no quarrel with the railways, and I do not think they have any quarrel with us. As the Duff Commission found, we are not substantial competitors of the railways. We have ministered to a demand to which they are not prepared to minister, and have built up a new business of our own. There is not a railway economist that I have ever heard of that has ever suggested that more than 5 per cent of the

loss of railway revenue would be attributable to the motor coach. Their loss, like ours, is attributable to the private automobile. Now, you have to take into consideration the fact that they can save money by using the buses on the highway as feeders for their lines and running services, and the elimination of services that they give as public servants. We do co-operate at the present time with the railways, and hope to have that co-operation continue. We practically co-operate in the summer time, for example, from Muskoka wharf. We take over the railway service to save them money, and at their request.

Finally, we are taxed in the province of Ontario—and in the other provinces as well, I presume—and taxed heavily, and it is not right to say that we ride upon highways that we have not paid for. As a matter of fact, gentlemen, you may be surprised to learn that the average motor coach in the province of Ontario pays annually to that province \$925 in taxation. You may be surprised also to know that there are certain highways in the province whose annual maintenance is entirely taken care of by the taxation of motor coaches that run upon them, though those coaches comprise only one per cent of the traffic.

The CHAIRMAN: Except through the towns.

Mr. FAIRTY: Well, Mr. Chairman, I am not thoroughly familiar with the relationship between the towns and the provincial government. I know there is something dealing with that in the Public Highways Act.

It has been suggested by people who are not thoroughly familiar with the problem that we injure the highway, but I may say that the highway authorities, both in the United States and Canada—and I would refer to Mr. R. M. Smith, for instance, Deputy Minister of Highways in Ontario—say that we do not. We gave quite an extensive proof of that before the Duff Commissions, and they found that our submissions were correct, and found 100 per cent in our favour.

Hon. Mr. LAIRD: How do you mean, 100 per cent in your favour?

Mr. FAIRTY: One hundred per cent in our favour in regard to these matters that I speak of—that we were not injuring the highways; that we were taxed adequately and were thoroughly regulated. I should like to suggest that a unanimous opinion of that character should mean something, especially when you have on the Board a hard-fisted railway man like L. F. Loree, and we were able to convince him.

Now, I want to read just a couple of sentences from their report. I refer to page 97:—

On the whole the operations of the motor coach in the various provinces are well conducted, and, so far as the public are concerned, on a satisfactory basis.

Then, on the next page:—

Though in the case of the motor truck next to be dealt with, it would appear that there is room for stricter regulation and for increased taxation; in the case of the motor coach there is little prospect that either by further taxation or increased regulation will the railroads benefit. It may be that as in the case of the common carrier truck, communities will eventually have to make a choice between steam railway services and highway services, for the reason that the traffic offering will not support both these types of transportation, but these instances in the case of motor coach services will be limited. If such do arise, and it is decided by the proper provincial authorities that the railway is entitled to give the service, this decision will be made effective, not by increasing taxation on the motor coach nor through increased restrictions and regulations, but by direct refusal to issue the necessary permit for highway operations in the particular area.

[Mr. Fairty.]

And this is their final conclusion:—

There does not seem therefore to be any necessity to recommend additional taxation and regulation of motor coach operations in the interest of the steam railways of Canada.

Now, in the face of all that, I am tempted to ask what all the shooting is about, what is the necessity of the present Act.

I will not say anything about the constitutional aspect. I will assume for the sake of argument that the Act is constitutional. Perhaps the Dominion is legally and technically right in assuming jurisdiction over interprovincial and foreign commerce. But even so, is it necessary and is it expedient? You may say this has been done in the United States recently. It has, but I want to point out that the States of the Union are smaller as a rule than our provinces. They have not the same geographical barriers, and in the United States interstate traffic had assumed large proportions, and unquestionably conditions were chaotic. For example, take the service between Buffalo and New York. The quickest route from Buffalo to New York is through Scranton, in Pennsylvania. That meant that neither New York, Pennsylvania or the Federal Government had the slightest control over the operation, and unquestionably there were all sorts of abuses from a public standpoint. They have a new Act down there dealing with the matter. But I suggest that even now I am not at all sure but what the remedy is just about as bad as the disease. I happen to have been in the transportation business a long time, and I have knowledge that this Act has meant the creation of a whole army of officials in Washington; indeed the flood in Ohio and the other States is nothing like the flood of applications that have poured in on that Department. People cannot get these applications dealt with, although there has been some effort at de-centralization by providing that there may be joint boards where only three States are affected.

But look at England. That is a small, compact country and has but one Parliament. What have they tried to do there? To decentralize the problem and put it in the hands of thirteen boards. In other words, it is somewhat a modification of our federal system.

In Canada, a country fifty times the size of England I venture to say at a guess, what are we trying to do? To centralize the whole thing in Ottawa and make the poor little fellow in Kelowna or Cape Breton come or send to the capital to have his problem dealt with.

I should like to say that in Ontario at any rate there is very little room for federal jurisdiction. In 1935 the total mileage operated by the thirty-seven member-companies of the Ontario Association of Motor Coach Owners—I apologize for treading on Mr. Lang's toes—amounted to 11,585,500 vehicle miles. Of this mileage 47,000 was operated in the United States and 73,000 in the province of Quebec, representing on a percentage basis .4 and .6, plus. That is, the amount of mileage which the Dominion is seeking to take over in Ontario amounts to 1 per cent of the total operated. It seems to me, gentlemen, that that is almost a case of the tail wagging the dog.

Candidly, I can see no advantage in federal intervention. The matter is adequately dealt with at the present time in the provinces. I can see a whole lot of disadvantages in federal intervention, and I shall detail some of them to your honourable Committee. First of all, I suggest it involves the creation of a new and increasingly expensive branch of your Transportation Department; and those branches have a tendency to grow. It forces operators large and small, from the Atlantic to the Pacific, to appear in one place in Canada. In respect of very minor operations it places heavy burdens on the operators as to returns, data, tariffs, and so on; and it imposes very heavy penalties for even innocent non-compliance with the regulations. It also imports the Railway Act, and I imagine every operator will be completely at sea as to what the Act means in reference to his business.

I suggest that an Ottawa bureau cannot possibly be as aware of local conditions as are local authorities. On that point I would refer you to what the Duff Commission says in their report at page 105, paragraph 62. They recommend:—

The administration and adaptation from time to time of the agreed principles of regulation of road transport should be left to the highway authorities of each province, and it should be recognized that, varying conditions will call for differences in detail in the framing of provincial regulations.

The CHAIRMAN: Would it lessen your criticism that the Railway Board divides itself into two or three component parts and travel from one end of the country to the other to meet the conditions in each province?

Mr. FAIRTY: It would lessen my criticism of course, but would it lessen it to an extent sufficient to meet the flood of applications that this new board is going to have? I doubt it, sir.

Right Hon. Mr. MEIGHEN: There would need to be two or three hundred.

Mr. FAIRTY: That is what I would think about it.

I would point out that the same fleet of coaches is used by operators in intraprovincial operation as is used in foreign or interprovincial operations. In case of any variation between federal and provincial regulations, and there may be such, it may impose severe and illogical penalties on operators. For instance, the maximum weight for buses is 12,000 pounds in New Brunswick as against 24,000 pounds in Ontario. I do not know which the federal authority would accept. They might have a variant scale for each province. I hope they would. But if not it might easily mean that although we have adequate buses we could not send them across the border because of weight requirements.

Then I might mention the question of tariffs. It was suggested this morning that one of the motives behind this legislation was to fix rates so the railroads—I think it was said—could compete. I would point out that if by any chance our tariff, say, to Buffalo is put up or down it involves practically all our tariffs automatically, because if we have to charge a certain tariff to Buffalo it means we have to change our tariff to Fort Erie, and following that we have to change our intermediate tariff between Fort Erie and Toronto. If we change that the people will know pretty soon and we shall have to change our whole system.

Mr. DANDURAND: Is your tariff regulated by the provinces?

Mr. FAIRTY: Yes, Senator Dandurand.

The CHAIRMAN: I understand you are speaking for the passenger traffic?

Mr. FAIRTY: Absolutely. I know nothing about freight, and I do not want to. It is a pretty ticklish problem.

Right Hon. Mr. MEIGHEN: You can lose enough money at what you are now engaged in.

Mr. FAIRTY: No, Senator.

Hon. Mr. BEAUBIEN: The tariff is predicated on mileage?

Mr. FAIRTY: Yes in the main.

Hon. Mr. BEAUBIEN: What is the basic rate?

Mr. FAIRTY: I do not know.

An Hon. SENATOR: You charge what the traffic will bear.

Mr. FAIRTY: No. After all, we are a public-owned concern, and we try to operate our service as close to cost as we can. We are making the traffic pay, but we are not charging the public more than is sufficient to meet the cost of the service.

[Mr. Fairty.]

Hon. Mr. McRAE: For instance, from Toronto to Buffalo how is your rate compared with the railway rates?

Mr. FAIRTY: It is substantially lower, that is the regular rate; but they have their cent-a-mile excursions, which undercut us.

Hon. Mr. McRAE: But they run those excursions only occasionally; you run every day.

Mr. FAIRTY: Yes, I concede one of the advantages the public has is cheaper fares. The fare to New York was about half; it will be somewhat more than that now with the new rates put into force in the States.

The CHAIRMAN: Your line is owned by the city of Toronto?

Mr. FAIRTY: Yes, it is.

The CHAIRMAN: Have you private competitors?

Mr. FAIRTY: With the exception of two little stretches of five and eight miles apiece, there are no competing motor bus services in Ontario. The Board feels there is no room for competition.

Right Hon. Mr. MEIGHEN: Does the motor bus end pay?

Mr. FAIRTY: Yes.

The CHAIRMAN: You pay taxes the same as the private fellow does?

Mr. FAIRTY: Yes.

The CHAIRMAN: I suppose you kick?

Mr. FAIRTY: Oh, always. As I say, the average motor bus in the provinces pays \$195 per vehicle per year. Grey Coach Lines pays upwards of \$50,000 to the provinces in taxes. It works out at one-twentieth of a cent per seat per mile, whether the seat is occupied or not. Then we have the six-cent gasoline tax, and as well the ordinary taxes which everybody has to pay.

Right Hon. Mr. MEIGHEN: The corporation taxes.

Mr. FAIRTY: And other taxes.

Hon. Mr. McRAE: Do I understand Grey Coach Lines is operated by the province and has a monopoly of the traffic?

Mr. FAIRTY: The city of Toronto owns the line.

Hon. Mr. McRAE: But you run to Buffalo?

Mr. FAIRTY: Yes.

Hon. Mr. McRAE: So you do not confine yourselves to the city.

Mr. FAIRTY: No.

Hon. Mr. McRAE: Don't some of your competitors run to Buffalo, too?

Mr. FAIRTY: It is not because we are owned by the city that we are so treated. The province of Ontario authorities thought they were right—and the Duff Commission thought so too—that the public interest is better served by giving the service to one person and watching him carefully. The Central Ontario and one or two other private lines are in the same position in their own territory.

Hon. Mr. McRAE: So you do not come in competition with other motor buses?

Mr. FAIRTY: No.

Hon. Mr. McRAE: You just come in competition with the railways?

Mr. FAIRTY: I started out, Senator McRae, by saying we were not in competition with the railways, and I do not think the railways will say we are. I shall be surprised if they do.

Hon. Mr. DANDURAND: Most of the passengers you carry would go by rail if your service was not available?

Mr. FAIRTY: No. That is the point I make: they would not. Mr. Bernard Allen—I think he is here—the economist of the Canadian National Railways, says differently.

Hon. Mr. DANDURAND: But the railways run from Toronto to Buffalo, and you run between the same points at a cheaper rate. So you get that much advantage.

Mr. FAIRTY: We get some business, but I suggest, Senator Dandurand, that most of that business would not go by rail anyway.

Hon. Mr. COTE: How would it go?

Mr. FAIRTY: By private automobile or otherwise.

Hon. Mr. COTE: No.

Mr. FAIRTY: The railway economists themselves say so.

Hon. Mr. DANDURAND: You stated that the regulations in the State of New York had raised the rate on coach business. Why was it raised?

Mr. FAIRTY: We have not raised any rate there.

Hon. Mr. DANDURAND: I am speaking of the United States authorities.

Mr. FAIRTY: I said the United States recently had reduced the basic rate for rail traffic from 3 cents to 2 cents, I think.

The CHAIRMAN: Are you not taking away passenger business from the railways?

Mr. FAIRTY: The Vice-President of the Pennsylvania Railway says he does not think so. I could also quote men like Mr. Ralph Budd, I think of the Great Western, who says he does not think so. It seems to me those men ought to know their business, Mr. Chairman, better than I do.

Hon. Mr. McRAE: What is your standard motive power, the diesel engine?

Mr. FAIRTY: No.

Hon. Mr. McRAE: You pay the gasoline tax?

Mr. FAIRTY: Yes.

Hon. Mr. McRAE: If you had fuel oil diesel engines would you not find it more economical?

Mr. FAIRTY: The diesel engine might or might not be. In London the Transportation Board announced they would use the diesel engine. At the time the tax on fuel oil was about a cent as against 8 pence on gasoline. The Government immediately raised the tax on fuel oil to 8 pence, and so caught them anyway.

Hon. Mr. McRAE: Diesel buses have been adopted in the Maritimes.

Mr. FAIRTY: There is one in London on trial and some in the United States.

Hon. Mr. McRAE: The Pacific Bus Lines are converting their buses into diesels, and they figure they will be able to operate them at about one-third the cost for gas. The diesel engine for buses and lorries is long past the experimental stage. All our motor buses and trucks are going to come to diesel engines, and their fuel cost will be reduced at least two-thirds. That is an issue in the offing in this problem.

Mr. FAIRTY: I agree with Senator McRae that the diesel engine is on the way, but up to the present the engineers have been confronted with metallurgical problems because of the stresses. These are so much greater in the diesel than in the gasoline engine that they have not been able so far to get suitable alloys.

Hon. Mr. McRAE: A gallon of fuel oil in a diesel engine exerts much more power than a gallon of gasoline in a gasoline engine.

Mr. FAIRTY: Twice as much.

Hon. Mr. McRAE: That further reduces the cost of operation.

[Mr. Fairty.]

Mr. FAIRTY: At present it is not a live problem. It may become so in five years.

Hon. Mr. McRAE: I think it is very much alive. It certainly is in the United States. Surely you are not going to be behind them in adopting economical methods of transportation. Cost of operation will be very substantially reduced. This in turn will bring down rates, and there will be an aggravation of the competition between these services.

Mr. FAIRTY: I may say that Montreal has had four or five diesel engines on trial and likes them very much. I think they are coming in, but our management in Toronto do not think they are completely proven yet. They may be wrong. I do not know. I am not an engineer.

Hon. Mr. LAIRD: Does the figure you mention per coach include the gasoline tax?

Mr. FAIRTY: Yes.

Dealing with this Bill specifically, I have three matters that I want to take exception to. In the first place, as I said in opening, there should be inserted in the Bill a specific, statutory distinction between trucks and buses. Buses are one thing, trucks are another. The trucks can look after themselves. We can look after the buses. I think any reference to buses should be struck out of the Bill. But whether you do so or not you should make a distinction, as they do in Ontario, between the public vehicle and the public commercial vehicle. Their problems are completely and absolutely different.

In common with Mr. Mason I take vigorous objection to the wording of section 29 of the Bill. It attempts to define how the Board shall act in granting certificates of convenience and necessity. I do not think it is at all necessary to make the attempt. It is not defined in the United States nor in the provinces of Canada where they have a similar clause. There is a definition in the British Act which is far more innocuous. But this Bill as Mr. Mason says, and I agree with him, gives the Board no discretion, it fetters them and practically tells them that in considering these things they are bound to consider primarily the interests of the railroads and the canals. That is my interpretation of this section, especially (c) wherein they are to consider: the general effect on the transport services in, and the costs to, the community involved in the issue of such licence.

The CHAIRMAN: You object to a body appointed by the federal authority saying the applicant must show there is necessity for another service. But don't you do that in Toronto? Between Buffalo and Toronto you say there is not any necessity for another service; consequently you have it all.

Mr. FAIRTY: I am sorry, Mr. Chairman, but I do not think I quite made my point clear. I have no objection, if you are going to pass this Bill, to having certificates of convenience and necessity; but I think the Board should be left unfettered in their discretion to grant a licence, and that they should not have to say, "Parliament has ordered us to decide this in a certain way and on certain principles."

The CHAIRMAN: Don't you in Toronto really decide it as against competition?

Mr. FAIRTY: We do. Necessity and convenience is an old phrase and has been in force in many of the jurisdictions of the States, and there is quite a substantial book by an American professor dealing with what the words "convenience and necessity" mean as interpreted by the Public Service Commissions of the United States. So, you see, the phrase is not without authority. But I do say this, you should change the wording of section 29 which, frankly, I say frankly, has too much of a railway and canal flavour.

May I refer you to the Road Traffic Act, 1930, of Great Britain. Section 72 deals with road service licences, and the Commissioners in granting such licence are directed to have regard to the following matters:—

- (a) The suitability of the routes on which a service may be provided under the licence;
- (b) the extent, if any, to which the needs of the proposed routes or any of them are already adequately served;
- (c) the extent to which the proposed service is necessary or desirable in the public interest;
- (d) the needs of the area as a whole in relation to traffic (including the provision of adequate, suitable and efficient services, the elimination of unnecessary services and the provision of unremunerative services), and the co-ordination of all forms of passenger transport, including transport by rail.

That is not, I think, an unfair statement. In my opinion it is much fairer than the one we have here. In the States they do not define it, neither do they in the provinces. Why enforce it here? Why not give the Board a free hand?

The CHAIRMAN: They do enforce it just as if it were defined.

Mr. FAIRTY: I have absolute confidence in the Board of Railway Commissioners, and I should just like to see them have a free hand.

There is one other point. I think in justice to the existing operators who will be affected by this legislation there should be what Mr. Mason calls a grandfather clause. That is to say, in the American Act operators operating bona fide before June 1, 1935 were given certificates of convenience and necessity as a matter of course. You must remember that that Act was under discussion before the federal authorities for two years, and it gave a lot of people a chance to become grandfathers. But in any case they did protect vested interests, pioneers who had gone in and built the service up. I suggest the least that can be done in this jurisdiction is to follow the same attitude.

But, in conclusion, I do suggest that here you have a very necessary and very popular public service that has built itself up in fifteen years from nothing to a well-organized and useful convenience. It is at the present time completely and adequately regulated and taxed, as the Duff Commission has reported. So why interfere with it? What is the necessity for this legislation? I think duality of control is greatly to be deplored. To-day the whole subject is covered without duality of control. If you could take control away completely from the provinces and hand it over to Ottawa, there might be less objection, but you cannot. If you make these operators subject to two jurisdictions, which may or may not conflict, you are going to subject them to a lot of grief without helping the public interests.

Hon. Mr. ROBINSON: Where are the buses built?

Mr. FAIRTY: At various places. Most of them at the present time come from General Motors in the United States.

Right Hon. Mr. MEIGHEN: They make motor buses here?

Mr. FAIRTY: They make bus bodies to a certain extent, but the modern bus cannot be built in Canada to-day. The body is built in one piece, and our manufacturers have not and cannot have the necessary plants to build the bodies because of the small demand in this country. I am not prepared with statistics, but I know there are four or five large concerns in the States that build buses. Our last buses we bought from the Twin Coaches Company in Ohio.

The CHAIRMAN: Who is next?

Mr. D. W. LANG (Ontario Motor Coach Operators Association): Mr. Chairman, there is very little I wish to say. A good deal of what I should like to have

[Mr. Lang.]

said has been far more ably presented by the gentlemen who have preceded me. I wish, however, to join Mr. Mason and Mr. Fairty in opposition to this Bill on behalf of the association I represent, which is the Ontario Association of Motor Coach Operators. The membership includes almost all of the bus operators in Ontario and their investment is approximately \$5,000,000.

I desire to confirm what has been said before, that we are thoroughly and adequately regulated in Ontario. I will leave with the Chairman a copy of the regulations. I had intended to mention them in detail, but I do not think it is necessary after what has been said.

I wish also to join with Mr. Fairty and Mr. Mason in what they said about section 29 of the Bill. I mention it because I have had some considerable experience with regard to applications for convenience and necessity certificates. I will go further than Mr. Mason went. I characterize section 29 as a thoroughly vicious section. To give effect to it is to take discretion out of the hands of the Board, where it should rest. Our experience in Ontario is that our Municipal Board arrive at very satisfactory determination of the questions, and they are not fettered by any statutory requirement as to what they must consider.

Right Hon. Mr. MEIGHEN: I should like to be clear on this. Suppose you have a motor-bus company that operates between Ottawa and Montreal. Does the Ontario Municipal Board give a licence to operate right through to Montreal?

Mr. LANG: I have never had any experience. I should say the licence would cover only to the Quebec boundary.

Right Hon. Mr. MEIGHEN: Then what happens?

Mr. LANG: They must go to the Quebec Utilities Board in order to go into Montreal.

Right Hon. Mr. MEIGHEN: So the whole passage is under the control of the two boards. Interprovincial traffic now is just as much supervised and the regulations applied just as much as they do to intra-provincial traffic.

Mr. LANG: Absolutely correct, sir.

Right Hon. Mr. MEIGHEN: So unless we could get better regulations, even though we had jurisdiction we could not effect any purpose.

Mr. LANG: That is correct. May I refer to only one matter in the Duff report? The other matters have already been referred to. Mr. Mason mentioned paragraph 166, at page 56, but I should like to read that section.

Any restrictive regulations imposed on the road vehicle will not determine the division of the functions as between roads and railways except to a relatively limited extent. In our view, this division of function will not be best obtained through the arbitrary action of governments, but rather through the efforts of those engaged in the transport industry.

Mr. Mason referred to the horse and buggy days. In conclusion I should like to go back a little further and recall to your minds the time about three hundred years ago when the bargemen on the Thames river presented to Westminster a great petition signed by themselves and many other people who likely did not know what they were signing, asking for some restraint of the competition they were suffering from the hackney coach. That petition went to Parliament, but Parliament wisely did not act on it, and the hackney coach was allowed to carry on, and I imagine that in the result a good many of the bargemen became hackney coach owners.

Hon. Mr. McRAE: Can you tell us how many passengers your association carried last year?

Mr. LANG: I am sorry, sir. I have not last year's figures.

Hon. Mr. McRAE: Approximately.

Hon. Mr. DANDURAND: What routes do you cover?

Mr. LANG: Our membership covers most of the main highways in Ontario. We have 37 members in our association.

Hon. Mr. LAIRD: Do they include the Greyhounds, too?

Mr. LANG: Yes.

Hon. Mr. McRAE: Can you tell me in a general way how your fares compare with the railway fares?

Mr. LANG: My instructions are that they are slightly under the railway fares—from 5 to 8 per cent, I understand, in a general way.

Hon. Mr. McRAE: Under your licensing system are licences given to your members competitively, or how?

Mr. LANG: Generally speaking, there is no competition. That is to say, if I operated on a route now, and you applied to the Board to operate on the same route, you would have great difficulty in convincing the Board of the necessity.

Hon. Mr. McRAE: So, generally speaking, it is a well controlled business.

Mr. LANG: Yes, sir. If I am falling down on my job you are likely to get a certificate, but so long as I am giving a satisfactory service I will not be disturbed.

Right Hon. Mr. MEIGHEN: And your rates—

Mr. LANG: They must be approved by the Highway Department before we can put them into effect.

Hon. Mr. McRAE: Then, am I right in the conclusion that there is really no motor coach competition in Ontario?

Mr. LANG: There is competition, but so far as possible the Board endeavours to have as little duplication as possible over any stipulated route, or to a stipulated place.

Right Hon. Mr. MEIGHEN: To the end that rates should be kept down?

Mr. LANG: Yes, sir.

Hon. Mr. McRAE: In the United States the rates are 50 per cent of the railway rates.

Mr. LANG: Mr. Fairty's statement was subject to what he said later. There has been a reduction in railroad fares.

Hon. Mr. McRAE: In the United States many people travel by bus from ocean to ocean. It is a question of cheaper fares. There are hundreds of people going across the continent in buses every day, from Los Angeles to New York City.

Mr. LANG: Yes.

Hon. Mr. McRAE: Because the rates are very much less. We have not the routes that make that possible, but it does not seem to me that the Ontario situation is really typical because it has no provincial legislation and restrictions. Am I right?

Mr. LANG: Would you repeat that, sir?

Hon. Mr. McRAE: Ontario is not a fair example of the bus situation under competition. In other words, in Ontario you are regulated and restricted, having regard, probably, to the railways as well. You have not the interference you would have if there was keen competition.

Mr. LANG: I cannot agree with that. In Ontario we have many roads, and in some cases there is more than one way of going to the point you want to get to, and you might go by my line or on another line.

Hon. Mr. DANDURAND: On another road.

Mr. LANG: On another road. In that way there is competition.

[Mr. Lang.]

Hon. Mr. McRAE: The rates are the same?

Mr. LANG: I presume they would be the same. The Board endeavours to keep one highway clear of competitive lines running over the same route, but that does not mean there is no competition between bus lines.

The CHAIRMAN: The Board is the judge of whether there is to be competition or not?

Mr. LANG: Yes. They are the final judges.

Hon. Mr. McRAE: It looks to me as though Ontario has pretty well solved the matter of competition between buses and railways.

Mr. LANG: Mr. Fairty has referred me to section 70 of the Duff report:—

The monopoly phase of the matter is only incidental. It is in the public interest that this form of transport should be dependable and to be dependable it must be in the hands of a reliable operator who can make his investment and give a service of the standard required without fear that he will suffer loss of business by the division of traffic.

Hon. Mr. McRAE: There is a very dependable service south of the line, and its rates are far under the railway rates.

Mr. LANG: From my knowledge, I should say that what is true of Ontario with respect to the Board and service generally is true of the other provinces. The Boards deal with these matters in the same way.

The CHAIRMAN: I do not object to it. I think it is a pretty good idea, because you cannot keep up any kind of system of transportation that is starved.

Mr. LANG: No, sir.

The CHAIRMAN: But as a matter of fact and record, you are protected from competition in Ontario—I mean undue competition—through the Board.

Mr. LANG: We are protected from what I might call unrestricted competition.

The CHAIRMAN: Now, who is next?

Mr. LOUIS RITCHIE, Saint John, New Brunswick, representing S. M. T. System, Limited, Scotia Motors, Limited, and Old Colony Coach Lines: Mr. Chairman and honourable gentlemen of the Senate Committee, I know you will be glad to hear me say that I must be brief, for I do not think I can add very much to the argument of those who have already spoken. The three companies I represent have headquarters in Halifax, Nova Scotia, Saint John, New Brunswick, and Boston, Massachusetts. They have a co-operative agreement, and are operating their services between Sydney, Halifax and Boston. They come directly under the scope of this Bill in that they are operating both inter-provincially and internationally.

The first objection we have to the Bill is that we do not want to come under dual control. Dual control would affect us in the matter of the rate structure and in the regulation of equipment. Already the regulations in Nova Scotia and New Brunswick vary. Old Colony coaches scarcely come over the border. They come into St. Stephen, and Woodstock, New Brunswick. The operation in Nova Scotia is with the S.M.T. equipment, and when it goes into Nova Scotia it comes under the control of the Scotia Transport, both as to equipment and personnel, and the reverse is true of the Scotia Transport when it goes into New Brunswick. That works out satisfactorily. We are under the control of the Motor Carrier Board of New Brunswick.

Hon. Mr. MACARTHUR: Is that route operated all the year round?

Mr. RITCHIE: Yes.

Hon. Mr. MACARTHUR: From Sydney to Halifax?

Mr. RITCHIE: I could not say. The Halifax to St. Stephen route is operated all the year round. My impression is that the other has been discontinued.

It is our thought that before this Bill is actually put into force the question of jurisdiction should be settled—the conflict of jurisdiction between the provinces and the Dominion. It has been well set out to-day that the provincial authorities are not ready to relinquish the jurisdiction they are exercising, and we do not want to be caught between two conflicting claims, because in such a case we will be the ones to suffer.

In regard to the question of taxation I cannot give you the payments of the company that I represent, but I do know that one of the companies in the past has paid out in taxation an average of 15 per cent of its total revenue.

Our rate structure on the suburban run is slightly above that of the railroads. We are paralleling the railroads in both these instances, and on the longer runs our rates are from 10 to 15 per cent below the regular railroad rates.

The CHAIRMAN: Would that be partially on account of the Maritime Rates Act?

Mr. RITCHIE: That may be the reason we are able to approach the railroad structure so closely.

Speaking again from an operating standpoint, we do not relish the thought of coming under a board that would exercise such remote control as that proposed. A provincial board is familiar with provincial problems. The companies I represent for the last year or so have been pestered with petty complaints, but as it happens we can deal with them very quickly. The railroads do not like the bus competition, and there has been a steady stream of complaints. If we had to come to Ottawa to deal with those complaints the result would simply be another item in the operating cost.

I think that is all I can say, Mr. Chairman.

The CHAIRMAN: Are there any questions?

Hon. Mr. LAIRD: Would you mind recalling the Grey Coach Lines' representative? I should like to ask him if he has any comments to make with regard to the question of the hazard of buses on the highway.

Mr. FAIRTY: Well, sir, we are very proud to say that we have never had a passenger killed. I think that in the whole history of motor coach operation in the province of Ontario only one passenger had been killed, and that was because of the negligence of the driver of a locomotive. It happened down St. Thomas way.

Hon. Mr. McRAE: How about the public?

Hon. Mr. LAIRD: I have heard complaints from the public about hazards.

Mr. FAIRTY: I think I should know, because claims for accidents are definitely in my department. And I certainly consider our accident record is splendid, compared with that of any other form of transportation that I know of.

Hon. Mr. ROBINSON: You never hit an automobile?

Mr. FAIRTY: Oh yes, of course we do.

Hon. Mr. LAIRD: I was thinking of collisions with other vehicles.

Mr. FAIRTY: I can only say that the last statistics I saw showed that bus accidents in the United States and Canada were about one-sixth of what the private automobile records show. And the reason is obvious; our drivers are in the prime of life, carefully disciplined and carefully instructed, whereas the driver of the average automobile is anybody at all who chooses to get in the front seat of a car.

The CHAIRMAN: He has to get a licence, in Ontario, at least.

Mr. FAIRTY: That is easy.

The CHAIRMAN: Who wishes to speak to us next?

Mr. R. G. PERRY, Provincial Transport Company, Montreal:

Mr. Chairman and honourable senators, I am here on behalf of the Provincial Transport Company of Montreal and its associated interests
[Mr. Ritchie.]

primarily engaged in the passenger transportation industry. We operate services in the Province of Quebec and the Province of Ontario, and also interprovincial services to the United States immediately adjacent. Prior to coming here to-day I prepared a memorandum, which I would prefer to leave with you and have written into your record, if you so desire. Before I prepared the memorandum I naturally had some idea that the persons who would precede me would cover the situation very fully and for that reason I do not care to cover any of the ground that has been so satisfactorily dealt with by the legal talent.

However, I do think this Committee should be enlightened on a few phases of our industry that are of the utmost importance. I gleaned from the cross-examination to-day that there are several very important phases which have not been intelligently put over. In other words, I do not think the gentlemen who preceded me have considered the importance of the regulations which govern our industry. The first matter I should like to deal with is the question of tariffs. During the past number of years a considerable amount of propaganda has been released to the effect that the motor coach industry in the Dominion of Canada was not properly regulated as to tolls and tariffs. Unfortunately that propaganda, emanating through our press, has given to the Canadian public at large a wrong impression. For your information I produce here to-day a sample of one of our tariffs. This tariff covers the operation of one of our interprovincial companies running between Montreal and Toronto and Montreal and Ottawa and serving the immediate territory. The tariff covers all rules and regulations pertaining to the rates charged, and also other rules and regulations pertaining to the handling of passengers' baggage. This tariff, prior to going into effect, was filed with the Ontario Department of Highways and the Public Service Commission of the Province of Quebec, both of which bodies approved it as being fair, as giving fair competition to other forms of transportation. This tariff went into effect on July 2, 1936, and I give you my word of honour that we have never sold one ticket, nor has any one of our agents sold a ticket, below the tariff rate as set forth in the tariff. The regulation to which we are subject, under our provincial governments is adequate; and they are very insistent that we comply with this tariff.

Whether you purchase fifty miles of transportation between Brockville and Kingston or fifty miles of transportation between Hawkesbury and Ottawa, the same rate is charged passengers per mile. There is no discrimination in any one zone. In other words, regardless of whether we have competition, the charge to the passenger is exactly the same.

Hon. Mr. COTE: Before you go any further, may I ask what is your basis for saying that the Ontario Department of Highways approved your tariff as being fair to other forms of transportation? Is there anything in the regulations to that effect?

Mr. PERRY: No, I would not say there are any regulations governing that. But the Ontario Department of Highways has always seen to it that the competition was fair to other forms of transportation and to competitive lines, where they exist.

Right Hon. Mr. MEIGHEN: I can understand the last phase, because that is under the province's supervision. But railways are a Dominion problem—the Dominion holds the bag—and I do not see why the Ontario Department of Highways would be very much concerned about them.

Mr. PERRY: They have never expressed themselves as being concerned with any other one form of competitive transportation, but they have always preserved the prerogative of passing on a tariff before it became enacted.

Hon. Mr. COTE: I was a member of the Legislature of Ontario once, and my recollection of the regulations in connection with the fixing of these tariffs is, first, that a tariff must not be excessive as against the public.

Mr. PERRY: Yes.

Hon. Mr. COTE: And, secondly, it must not be so low that the company would be in danger of going bankrupt and thereby making it necessary to set up a new corporation. But I never heard of the principle you explained a moment ago, that the tariff had to be fair to other forms of transportation, as, for instance, to a railway.

Mr. PERRY: I have been advised by the Ontario Department of Highways that they have been approached by other competitive forms of transportation complaining of the ridiculously low rates in certain zones, and they have impressed upon us the necessity of maintaining a uniform standard in fairness to other forms of transportation. About a month ago we applied for a new low rate between Toronto and Detroit. Other parties objected and we had to raise our contemplated rate 15 cents to comply with the request of the objectors.

Right Hon. Mr. MEIGHEN: Were the other parties railway interests, or competing interests?

Mr. PERRY: Other motor coach lines.

Right Hon. Mr. MEIGHEN: I can understand that.

The CHAIRMAN: You are fairly well guarded, as far as I can judge from what I have heard, against competing coach lines?

Mr. PERRY: We are, sir.

In addition I should like to leave with you a copy of a tariff issued by our association in Ontario governing the rates between major centres in the Province of Ontario. I can assure you that this tariff is lived up to and abided by by all the participating carriers.

Hon. Mr. HARMER: What was the total number of passengers you carried last year, and your total mileage?

Mr. PERRY: I can only give you that for one company. For our Quebec company, entirely within the Province of Quebec, I have figures available. In the Province of Quebec, during the year 1936, we covered approximately 800,000 miles and carried in excess of 1,500,000 passengers.

Hon. Mr. HARMER: What would be your mileage per passenger?

Mr. PERRY: I have not got that figure, sir. During that period we paid in taxes to the Province of Quebec—taxes on gasoline, road taxes and payments for licence plates—\$61,905. That tax ratio to gross revenue was 10.6 per cent. The taxes paid amounted to five and one-third cents per passenger carried. In addition to these sums we paid the usual provincial and municipal taxes, also civic and federal sales taxes. A tax in excess of the gasoline tax alone was the bridge tolls. In the year 1936 we paid bridge tolls in the Province of Quebec amounting to \$32,916.25.

The CHAIRMAN: Mostly on those two Montreal bridges?

Mr. PERRY: We pay on those two bridges going off the island west to Toronto. In fact, in order to leave the island of Montreal we have to pay a toll on every bridge.

Hon. Mr. LAIRD: Do you pay so much per bus or per passenger?

Mr. PERRY: The bridge toll is so much for the unit movement. We pay in some cases 75 cents per coach for crossing and in some cases one dollar, regardless of the number of passengers. There also are intermediate bridges between Montreal and Quebec, and other similar bridges throughout our provincial operation.

Hon. Mr. HARMER: What would all your provincial taxes amount to, per passenger?

Mr. PERRY: I do not know, sir, but in percentage of gross revenue all of our taxes would be approximately 17 per cent.

[Mr. Perry.]

The regulation as now exercised over our industry by the provincial governments we believe to be adequate and in the interests of the Canadian citizen and taxpayer.

To comply with the legislative bodies of Ontario and Quebec, we come under the following regulations: payment of highway seat tax. That is for every mile we roll a motor-coach, regardless of the number of passengers in that coach, we pay a highway seat tax of one-twentieth a cent per mile. In other words, every mile we roll a 30-passenger coach, we pay 1½ cents to the provincial government. There are not many people conversant with that fact, which is a very heavy burden to carry. In addition, we pay the gasoline tax.

Hon. Mr. LAIRD: That is not in Ontario?

Mr. PERRY: It applies to both provinces. In addition, we file tariffs of tolls and time-tables for approval by the Department.

Hon. Mr. HARMER: Is that gasoline tax earmarked for the making of roads?

Mr. PERRY: It is earmarked, sir, but I don't think it ever gets there. I believe, so it has been said. I am not an authority.

There is also the question of inspection of vehicles. There are definite rules and regulations governing this inspection to see that they are sanitary and safe for operation. We, of course, comply with those regulations and in addition we exercise a very close supervision over all rolling stock in the interests of the public and with the idea of curtailing and reducing to a minimum road failures. We also very carefully look after ventilation, lights and heating. We have to make reports to the provincial governments of all accidents we are involved in, whether we are responsible or otherwise. It is stipulated that we must carry extra tires. Then there is the question of brakes.

Hon. Mr. HARMER: What about insurance?

Mr. PERRY: We buy public liability and property damage insurance and file a copy of the policy with the provincial government. In addition to meeting those requirements we are carrying an excess policy up to \$175,000 for any one accident, and \$75,000 for injury to any one passenger. We also carry tire chains and fire extinguishers.

I should like to dwell for a moment on drivers' qualifications, because again I say we have been unfavourably publicized and it has been stated we will employ anybody as a coach operator. Gentlemen, that is not the fact. In employing the services of a motor-coach operator we exercise extreme care. First of all, he is serving as a member of a public utility, and our interest to the public is of the most importance, but besides that, we have to safeguard our investment in this rolling stock.

The CHAIRMAN: How many hours does he work each day?

Mr. PERRY: The Departments under which we operate require that no man shall work more than ten hours in any twenty-four hour-period. In the interests of safety, working very closely with safety engineers, we have found it most economical to under-work rather than over-work our men. Men who are over-worked become lax, the accident hazard increases, sometimes when tired they become discourteous to our passengers, and make mistakes in the handling of their tickets and change. I would say that the average man in our company does not work more than seven hours in any twenty-four hour-period.

Hon. Mr. HARMER: Have you the scale of rates that you pay these operators?

Mr. PERRY: We have not, sir.

Hon. Mr. HARMER: Could you give us the average?

Mr. PERRY: Yes, I could. I might say our scale of wages to the motor operator average the year round—I would say a cross-section would be approximately \$35 a week.

Hon. Mr. HARMER: And the average time is less than seven hours?

Mr. PERRY: Slightly less than seven hours, sir. We are also regulated as to the general habits of the coach operators. For instance, the question of smoking in coaches.

Hon. Mr. HARMER: I was referring to drivers.

Mr. PERRY: Yes, just as to the coach operator, not the maintenance department or any other personnel.

The maximum hours are also controlled. Then there are restrictions as to sobriety, carriage of passengers' luggage, emergency exit doors, public liability and property damage insurance. In addition, our coaches are equipped with first-aid kits, and also with flags and flares in case of interruption during day or night in order to warn passing motorists that the vehicle is temporarily disabled.

I should like to put this point over, gentlemen. In addition to the weekly remuneration to coach operators, we pay them a bonus every thirty days. This bonus is based on a quarter period of every three months. If a man operates three months successively with no accident, good general deportment, proper and correct return of tickets and change, and no complaints, he is entitled to the monthly bonus for the three months. In addition he gets a quarterly bonus, and if at the end of the twelve-month period he has a perfect record he gets an annual bonus equivalent to 25 per cent of the bonus paid him during the year. That is a measure we have extended to all operating employees. It applies only to motor-coach operators in order to improve efficiency and we are quite sure it has been instrumental in our being able to obtain and retain high-class operators for an indefinite period.

I should add that we compel all men to be physically examined once a year.

I think, gentlemen, that is all I have to say. I simply want to impress upon you that we are operating a passenger service that this country can be well proud of. We have had a lot of safety engineers and traffic men from the United States, and they have expressed admiration for the efficiency we are operating these services in Ontario and Quebec.

Hon. Mr. LAIRD: Is it not a fact that the provincial departments restrict the services so as not to clutter up the highways with buses?

Mr. PERRY: I do not think that is the reason, sir.

Hon. Mr. LAIRD: I understand they do that out West so long as one operator is giving satisfactory service.

Mr. PERRY: I do not think another ten buses on the highway from Toronto to Montreal would be noticed by motorists. I do not think it would result in anything like dangerous congestion. I think our Department realizes, after viewing the motor-coach business in the States, that to allow two companies over a given route results ultimately in very poor service to the public. Neither of the companies makes money because of cut-throat competition, and in the long run the public are the losers. The governing body under which we now come see that we give service commensurate with the public necessity and at a price they can afford to pay. We have been requested in many cases to put on additional services. We have always taken the attitude that the prospective passenger was right, and we have placed in effect an experimental service. We have followed that up by a personal message to each passenger; that is, we provide a card questionnaire which we give to all the passengers, say, on the Montreal and St. Anne route, or any other route we are experimenting with, and try to find out if we are giving satisfaction. In that way we get an expression of opinion as to whether the service appeals to the majority of the passengers. We are following that trend every day in order to provide in advance additional services instead of being accused of under-service in any zone.

[Mr. Perry.]

Hon. Mr. COPP: Is your company paying a dividend?

Mr. PERRY: We are looking forward to that time.

Hon. Mr. COPP: How long have you been in business?

Mr. PERRY: About eight years.

Hon. Mr. COPP: And you are not paying a dividend yet?

Mr. PERRY: We have not as yet paid a dividend, sir.

Hon. Mr. COPP: Your rates are substantially under the railway rates.

Mr. PERRY: That is a point, I think, which would lead to a rather lengthy discussion.

Hon. Mr. COPP: All right. Take your rate between Montreal and Toronto. That is easy to deal with. You file a tariff there. Is it below or above the railway rates?

Mr. PERRY: It is above.

Hon. Mr. COPP: Your rate is above?

Mr. PERRY: I want to clarify that, sir. I would say the average train mileage operated between Montreal and Ottawa over week-ends—and that is when you are catering to the greatest number of travellers—is approximately 25 per cent lower than the coach rate. I will clarify that further. On three consecutive week-ends the railways operated an excursion from Ottawa to Montreal, or vice versa for \$2.25 the round trip. Our one-way fare is \$2.60. So that I would say if you were to take a cross-section of the mileage operated by our Canadian railroads at week-ends, you would find their fares are materially below those of the motor-coach companies.

Hon. Mr. COPP: You are referring to those recent excursions?

Mr. PERRY: The trouble is, sir, those excursions have become epidemic.

Hon. Mr. COPP: But the Grey Lines' representative said his rates were from 5 to 8 per cent below the rail rates.

Mr. PERRY: I would say our rate structure is approximately—there is the same differential between the railway tariff rate and our tariff rate, but unfortunately we are faced with this week-end—I might say—cut-throat competition, which is considerably below the fares we are charging.

Hon. Mr. COPP: You mean they cut your throat on the week-ends and you do the throat-cutting the rest of the week?

Mr. PERRY: No, sir, I would not say that.

Hon. Mr. ROBINSON: The majority of the people wait for the cut.

Mr. PERRY: That is it.

Hon. Mr. McRAE: Do you find your revenues materially increased during the week-ends?

Mr. PERRY: No, sir, when the railroad runs excursions we might as well go out to the ball game.

An Hon. SENATOR: Why don't you enter the cut-throat business?

Mr. PERRY: No. Our policy is to give the public a fair rate 365 days of the year. We do not discriminate on any one territory or any one zone at any one time. We have a tariff fair and equitable whether you want to travel Tuesday or Saturday.

Hon. Mr. COPP: It is not quite fair to you if you do not pay a dividend.

Mr. PERRY: We have gone through hard times; all the transportation companies have. We get strong competition from the private automobile, but with the upturn in business and the farmers getting on a little more substantial basis, we are looking forward to the time when we shall pay a dividend.

The CHAIRMAN: You may be accumulating a tidy reserve.

Mr. PERRY: I would say our reserves are in keeping with good business practice.

Hon. Mr. McRAE: Have you any diesel engine equipment in your fleet of buses?

Mr. PERRY: Yes. We are experimenting with some diesel engine equipment. It is a little early in the day to make any commitments, but I am afraid when the diesel engine becomes as popular over here as it has been in England, the difference in cost of operation will be—well, there will be practically no difference in cost of operation between the gasoline vehicle and one propelled with diesel fuel.

The Right HONOURABLE Geo. P. GRAHAM, P.C.,
Chairman,
Senate Committee on Railways, Telegraph and Harbours,
Ottawa, Canada.

Re: The Transport Act 1937 Bill B.

Sir and Honourable Senators:

I represent the Provincial Transport Company, of Montreal, who are interested in the operation of interprovincial, intraprovincial and international Motor Coach services in the Provinces of Quebec and Ontario.

With respect to Motor Coach passenger services, I wish to state that certain economists and propagandists have during the past number of years released through the Canadian Press a great number of unfounded statements to the effect that the Motor Coach industry was not properly regulated, that it did not pay its fair share of taxation and the control exercised over this industry by the Provincial Governments was not in the best interests of the Canadian public or its taxpayers.

The Federal Government appointed a Royal Commission in 1931, and their Report was based on a survey of Canada's transportation facilities as they existed in the years 1931 and 1932. In dealing with Motor Coach services, this Report states that it was essential that the country should have the free and unhampered use of the cheapest forms of transportation and, therefore, no restrictions which would unfairly prejudice the road user should be imposed.

I would request that the Honourable Senators in attendance here to-day, refer to Page 96 of this Report which deals further with the advisability of not imposing any unnecessary restrictions upon Motor Coach transportation services.

I also wish to point out that this Commission was advised by provincial authorities that they had offered to railway companies privileges of providing highway services, but the railways concluded that they were not interested in providing such services. Private interests were accorded franchises by these governments, and these interests have expended millions of dollars in furnishing the public with satisfactory services.

In addition, the Royal Commission found that taxes paid for the registration of motor coaches, fees for licences or permits to operate, in addition to other taxes levied, provided at least a fair contribution for highway use and maintenance.

It is our opinion that all motor coach operators now regularly licensed by provincial bodies and operating should not be forced to make application to the proposed board to obtain permits, rather they should be automatically licensed to continue their present highway services.

I am now desirous of discussing certain paragraphs in Bill B, which we believe should be altered or amended.

[Mr. Perry.]

Part 4 of Bill B, page 7, paragraph 13, deals with the powers of the proposed board, with respect to tolls and tariffs and for the enforcement of its orders as now determined in the Railway Act. The wording of this paragraph establishes a duplication of existing regulations now being enforced on the motor coach industry by our respective provincial governments. This control we consider is satisfactory and efficiently and economically exercised. Further, the application of duplicate regulations would involve interested parties in additional expense and unnecessary labour and confusion.

I recommend deleting paragraph "N," page 2, and in its place insert two separate paragraphs, one dealing with the passenger vehicle and one with the freight vehicle.

Public Passenger Vehicle

"Public passenger vehicle" means any motor vehicle operated on a highway by or on behalf of any company or person who receives compensation for the transport of passengers by means of said vehicle.

Public Commercial Vehicle

"Public commercial vehicle" means any motor vehicle or trailer operated on a highway by or on behalf of any company or person who receives compensation for the transport of goods by means of said vehicle.

These suggestions are offered for the sole purpose of more clearly differentiating between the passenger-carrying vehicle and the freight-carrying vehicle. My reason for separating these two distinct forms of services is that tolls, tariffs and regulations applicable to one cannot be applied to the other.

Transport by Highway

Page 3, paragraph 2, subsection "U," I would suggest a re-wording of this subsection, as follows: "U 'Transport by highway' means the transport in interprovincial or foreign trade or upon a dominion highway, of passengers or goods for hire or reward by means of public passenger vehicles or public commercial vehicles."

Broker

I would respectfully suggest that under the heading of interpretations, page 1, paragraph 2, subsection D, wherein a broker is classified as being "Any person," this should be referred to as "Any person, or association of persons or a company, whether incorporated or not."

In connection with the question of taxation now levied by the province of Quebec on our existing services, I wish to quote the following statistics as applied to the services of the Provincial Transport Company, for the years 1935 and 1936.

1935	
Gasoline tax	}
Quebec road tax	
Licence plates	
\$48,828.27.	
Taxes paid, per cent of gross revenue—9·9 per cent.	
Taxes paid per passenger carried—5 $\frac{2}{3}$ cents.	
1936	
Gasoline tax	}
Quebec tax	
Licence plates	
\$61,905.06.	
Quebec tax—\$61,905.06.	
Licence plates.	
Taxes paid, per cent of gross revenue—10·6 per cent.	
Taxes paid per passenger carried—5 $\frac{1}{3}$ cents.	

In addition to the foregoing taxes, we paid the customary municipal and provincial taxes, also civic and federal sales taxes.

With respect to bridge tolls in the province of Quebec, we paid during the year 1935 an amount of \$26,673.14, and in the year 1936 these bridge tolls amounted to \$32,916.24.

Before concluding I wish to impress upon this committee that we believe that the facts as submitted are conclusive proof that the motor coach industry is being properly regulated and pays a fair share of taxes and is a necessary and convenient form of transportation.

Any regulations that would result in any way in restricting this class of transportation would work a great hardship on many of our citizens, who are solely dependent upon this form of transportation.

The importance of these highway services is made plainly evident by the fact that the governments are endeavouring more and more to maintain these routes open during the winter season.

The foregoing is respectfully submitted, and if any of the honourable senators of this committee are desirous of being enlightened upon any particular phase of the motor coach industry I will be pleased to obtain the necessary information.

Respectfully submitted,

MONTREAL, Quebec
February 18, 1937.

R. C. PERRY,
Passenger Traffic Manager.

The CHAIRMAN: All right. Thank you very much, sir.

We will now hear from Mr. Brintnell.

Mr. W. LEIGH BRINTNELL (Mackenzie Air Service and United Air Services, Edmonton): Mr. Chairman, I represent the Mackenzie Air Service of Edmonton operating into the Mackenzie river area. We cover all the northern part of Saskatchewan, Alberta, British Columbia, the Yukon and Northwest Territories. I also represent United Air Services, composed of my own company, Wings, Winnipeg, and General Airways, Toronto. We operate collectively twenty-six airplanes, covering the country, Alberta to British Columbia.

I should like to point out a few facts in connection with the development being carried on in Northern Canada through aircraft. I assisted a few years ago in transporting the first men and supplies into Flin Flon, northern Manitoba. Now there is a town there of 5,000 people, who perhaps would not be working if it had not been for this discovery. Great Bear Lake would still lie as it has been for a thousand years but for the use of aircraft. Airplane companies in northern Canada have speeded up these developments and many others years ahead of their time, and this has been the cause of increasing employment and the production of new wealth.

As you gentlemen already know, large sums of money have been spent by the Government in providing assistance and facilities for railways and boat transportation. Hardly any Government assistance has been accorded air operators, yet in spite of this lack of facilities and subsidies, my companies and associated companies who serve the majority of the mining firms in their respective areas actually show profits.

When the trans-Canada airway system is properly organized it should enjoy excellent patronage, because all of the mining fraternity are air-minded, and our companies will be pouring business into the main lines, and by the same token the trans-Canada air system will be bringing train-loads of passengers from the big centres of population and feeder lines for transfer to their respective mines.

[Mr. Brintnell.]

I wonder how many of you gentlemen know that Russia, through Government-assisted air transportation, has in the last few years supplanted Canada as the second greatest producer of gold.

As I pointed out before, we have not begged for assistance, but we have gone out and met conditions as we found them, and met them successfully, and yet, if we were given greater assistance, it is quite possible we would be able to increase our business, which would stimulate additional mining activities, meaning production of more mines and more employment.

I am not going into the details of this particular Bill, as it has been very well covered by my associate, Mr. Roy Brown. However, the Railway Act covers the forms of transportation which have been in existence a great many years. The air business is new with entirely different and variable problems. The future of this country is irrevocably hitched to the development of northern Canada, in which our companies are playing such an important part. The air business here already leads the world in the transmission of express and mail by air. Now with the inauguration of the trans-Canada system it has possibilities which are hard to visualize. I ask you gentlemen, is it possible to administer this great new business under the Railway Act? The air lines in the United States and Europe do not come under Railway Acts.

For Mackenzie Air Service and United Air Services I am in accord with the idea of licensing companies and also of rate control which, however, might be very difficult to work out.

In conclusion, I should like to point out that in spite of the pioneer nature of our business and the undeveloped country over which we operate, there have been no injuries or fatalities to passengers in the Mackenzie river area since the inception of flying in 1929.

Hon. Mr. McRAE: Would you give the Committee a little more detailed information respecting your operations through the north country. This Bill proposes a licensing system and rate control. I understood you to say you favour rates being regulated. I have been with you more than once and I have seen you pick up cargoes here and there and wait half a day sometimes to pick up a man and get him back to Edmonton. I think the Committee will be very much interested in some statement from you as to how you gather your cargoes and that sort of thing. I think, Mr. Chairman, that has a direct bearing on any regulation, actual day-to-day operation.

The CHAIRMAN: That is one of Roy Brown's points that impressed me.

Mr. BRINTNELL: We are operating a scheduled service out of Edmonton, but most of the business is carried on as it arises, and as you already know, prospectors wish to be transported to places which probably you have never heard of before. As a consequence rates in that respect might be difficult to work out. As to a minimum rate structure in zones of certain areas, I am rather in favour of that, but, as I say, I think it would be very difficult to work out something covering all operations.

Hon. Mr. McRAE: As a matter of fact, Mr. Brintnell, when you send your pilot out with an airship, and he takes up a load, he makes his rate right there for a lot of his stuff.

Mr. BRINTNELL: Quite so.

Hon. Mr. McRAE: Then again, he gets a side trip when a man wants to be taken two or three hundred miles to another field, and he takes him over without reference to rate schedules or anything like that.

Mr. BRINTNELL: We base that in our particular areas—and it is the same in other areas where I have operated—on the basis of so much an hour in a certain zone which is governed by the cost of gasoline.

The CHAIRMAN: Do they not sometimes take you to a place that you forget about?

Mr. BRINTNELL: That has not happened yet.

The CHAIRMAN: I am told that often there is no destination that the pilot knew of until he was on his way.

Mr. BRINTNELL: That often happens. We are sometimes told where the destination is after we get into the air.

The CHAIRMAN: Now, any other witnesses?

Mr. D. S. ORMOND, Wings, Limited, and United Services, Winnipeg: Mr. Chairman and honourable gentleman, I will attempt to express only the principles on which I wish to speak, and leave out the detail which has been very well dealt with by Messrs. Brown, Thompson and Brintnell.

First, I might say that Wings, Limited, is a company operating out of Winnipeg. It has about \$200,000 invested in equipment, and is serving the mining areas of Manitoba and Western Ontario.

Now, there has been some discussion of the feasibility of rate control, or the determination of rate structure. There are certain operations, possibly, which could come within proper rate control. For instance, the company I represent operates a schedule on one route of 225 miles, dropping in at various mining camps on the route. In another case there is a daily operation covering 360 miles between Winnipeg and a centre at Red Lake. In the same way I could set out other operations. Those, I submit, are apart from the job of operation mentioned here previously. There are the two services: the schedule service and the charter or occasional service.

In 1936 the company carried 8,800 passengers and 2,500,000 pounds of freight in the relatively small area it serves.

As I have indicated, the company supports in principle the Bill which is before you, that is, assuming the intention of the Bill to be the reasonable control of the carrier by licence and a reasonable regulation of rates where regulation is applicable.

Right Hon. Mr. MEIGHEN: You are controlled by licence now.

Mr. ORMOND: Only in respect of interurban or international operations.

Right Hon. Mr. MEIGHEN: Does not the Dominion Government examine your craft?

Mr. ORMOND: Oh, yes. I am not referring to the licence of the aircraft.

The administration and control of the operation of civil aircraft comes under the Aeronautics Act and the regulations thereunder. Any aircraft in Canada is licensed as a private or commercial aircraft by the Department of Transport to-day.

Right Hon. Mr. MEIGHEN: But you are prepared to have a control that goes beyond that; that is to say, a licensing for the purpose of controlling rates.

Mr. ORMOND: A licensing based on the principle which I read into the Bill before you. In the various areas now served there are one or two or three operators flying to-day. Under a form of licensing which I gather to be somewhat similar to that applicable to bus or truck licensing in the provinces this system would come into effect, as I understand the nature of this Bill. That of course, I suggest, has to be a reasonable licensing. I do not think under the provisions of the Bill that would be the case, and later I am going to refer to the regulations now in force in England under the Air Navigation Act.

I do not think I need deal at length with the development of operation. Mr. Thompson gave you the amount of traffic handled last year in the North, and I think a safe estimate for 1936 would be 7,000 passengers and 40,000,000 pounds of freight and express. Again, as Mr. Brintnell has explained, this development has taken place without—I was going to say the expenditure of any government money; but there has been some small expenditure—without anything in the nature of a subsidy excepting payments under mail contracts.

[Mr. Brintnell.]

The change over in administration to the Department of Transport is one long advocated by the industry, and the industry realizes that the Minister and his department have a very full understanding now of the nature of northern operations.

During the past few years competition has grown and the rate structure has come down, and there is in some cases a need for revision. Primarily, I think, this should come from within the industry and remain in the hands of the industry, provided reasonable tolls are in effect, giving consideration to service involved and to other factors arising in any transport business.

Therefore, as I have said, we favour the principle of the Bill, but in matters of administration and certain provisions of the Bill would like to make comment, objections and suggestions.

There is to-day and will continue to be a need for the offices of a board such as the Transport Commission or some other such body, to which appeals can be made for rate revision in case of unfair competition. For instance, in one area a mail subsidy might be granted which would be used as a lever against other operators. I can foresee the possibility of that weapon being used in air operations.

Most of the companies operating to-day have invested substantial sums. They have spent time and effort in increasing the services and keeping their equipment up to date. For instance, Wings, Limited, has ten aircraft flying, eight of which are less than a year old. I suggest, then, from the standpoint of the northern operator that there is a necessity for the determination of a minimum rate structure, as, from our experience, this will be the only means of assuring companies with a large capital investment a sufficient return to maintain their equipment in proper condition and give a fair return on the moneys invested, always provided that the interests of the trader are looked after.

I repeat that the company favours the principle and the objects of the Bill, but in the matter of administration and regulation, and in respect of certain provisions as they now stand, I should like to make some comment. I will not refer to the details of clause 9. I think there is sufficient evidence already before the Committee to show that the provisions of the Railway Act as they now stand are utterly inapplicable to the control of tolls and tariffs in so far as aircraft operation is concerned. I am afraid I cannot agree with Mr. Thompson, who said that there is no need for such control if air regulations are enforced to the utmost. The air regulations as they stand to-day are, I think it is admitted, rather out-moded. Granted that they were drawn up by a committee of experts, that was done nearly twenty years ago, and at that time they were made to be applicable to transport operation, particularly European transport operation.

I do not think there can be any rate control or a measure of control of competition through the enforcement of air regulations alone. These are being enforced to-day.

In referring to section 10, it will be noted that the Minister may license aircraft. It goes on to say that the licence shall apply to one or more aircraft, and shall prescribe the route or routes, which means that the activities may be cut down by that licence. I suggest that the company or person operating the equipment should be licensed; that the licence should apply to a certain zone or area, and that no attempt be made to restrict the operation of the aircraft to a particular locality.

Hon. Mr. GRIESBACH: Otherwise you would not be able to help another aircraft.

Mr. ORMOND: You cannot hitch one aeroplane to another. We have not any glider trains in operation yet.

Now, there are other features of the Bill that I should like to discuss, but I will skip them to point out that I think the provisions in respect to penalties are exceedingly onerous. Not only is there a fine, ranging from \$200 to \$500

under clause 11, but there is also provision for forfeiture of the aircraft. I suggest that a bond might be placed on the licence which, on summary conviction or proof of infraction of the regulations or rules, would be forfeited in whole or in part.

Other items were discussed before you by Mr. Brown, so I shall not take up the time of the Committee.

Section 22 of the Bill contains a very important provision. However, it has already been discussed and I will not refer to it again.

The question of the liability of aircraft and the cost of operation in different areas arises, and I submit that what is laid down is impracticable.

Mr. Lang and Mr. Mason, who appeared before you in respect of automotive traffic, have made their objections to section 29. Legally, I think, the same objections apply in the case of aircraft. There is of course a need too in this case of the grandfather clause which has been referred to so often.

In closing may I again state that some form of reasonable regulation is desirable, but that in the form in which it appears before us it is decidedly impractical so far as the operation of aircraft in the north is concerned. I submit that the Government, having undertaken such regulation after a lapse of ten years, during which time the industry has become really important, should not initiate legislation hastily. If this Bill is to be adopted in its present form northern operations should be excluded, and the provision with respect to tolls and tariffs omitted. In substitution I would suggest that provision might be made for establishment of regulations of the Transport Board by Order in Council, but that before any such orders or regulations are drawn up the commercial operators should be consulted, so that such regulations will be designed to meet the needs of the industry rather than to make aircraft operations suit the provisions of the Railway Act.

I would go one step further, sir. In England there is now in effect the Carriage by Air Act, 1932, which determines the status of aircraft operators in that country, following out the terms of an international convention. There are various other air navigation Acts in England, the last of which was passed in 1936, and in other countries of Europe and in the United States there are similar Acts now in force.

By way of suggesting a possible method of handling the matters proposed to be dealt with by this Bill, I will read part of section 5 of the English Air Navigation Act, 1936.

5.—(1) His Majesty may by Order in Council make provision—

(a) for securing that air craft shall not be used in the United Kingdom by any person—

(i) for plying, while carry passengers or goods for hire or reward, on such journeys or classes of journeys (whether beginning and ending at the same point or at different points) as may be specified in the Order or. . . .

It goes on in detail as to the terms and provisions to be included in those Orders; and

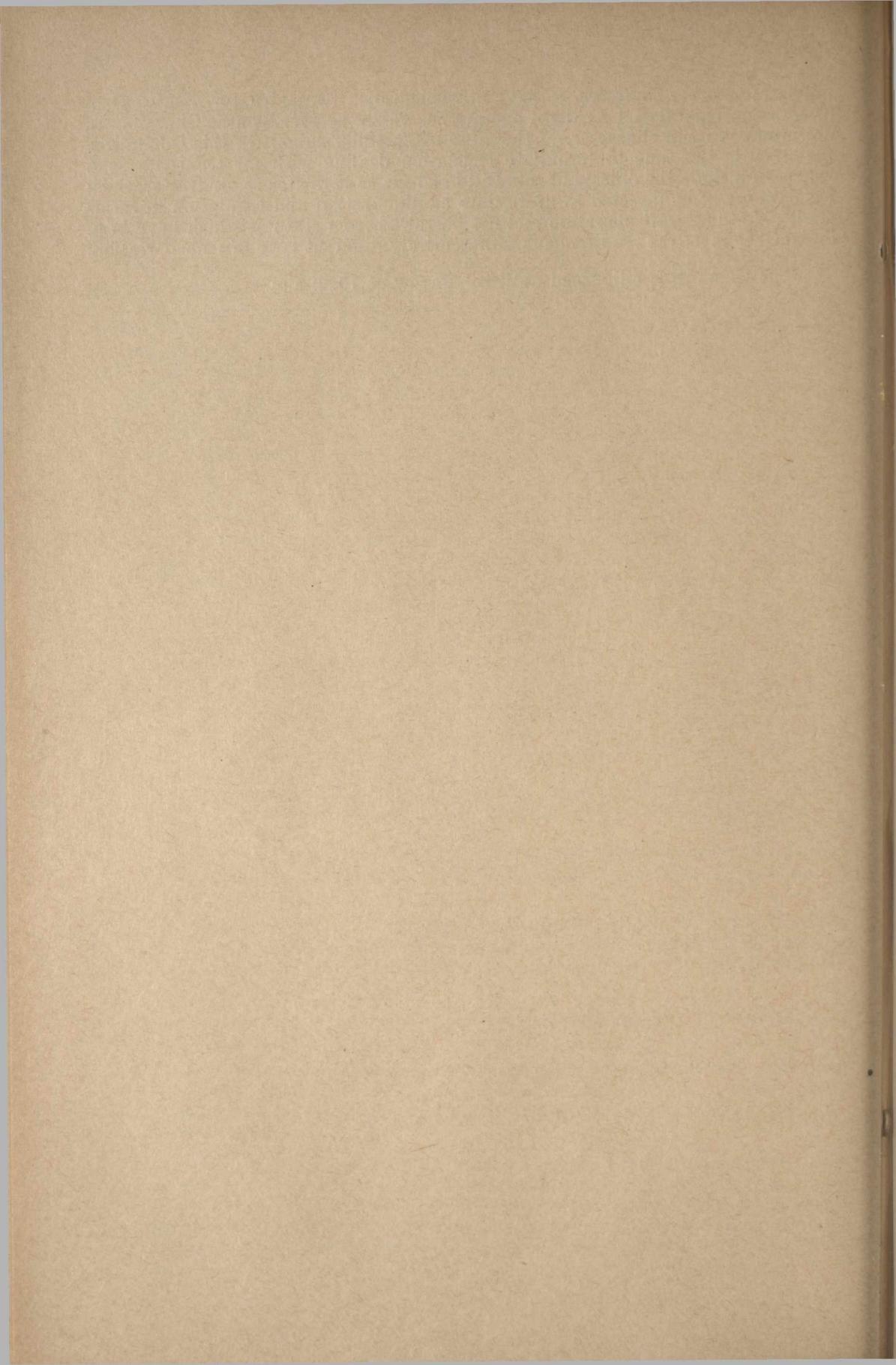
(d) as to the conditions which may be attached to such a licence (including conditions as to the fares, freight or other charges to be charged by the holder of the licence), and for securing compliance with any conditions so attached;

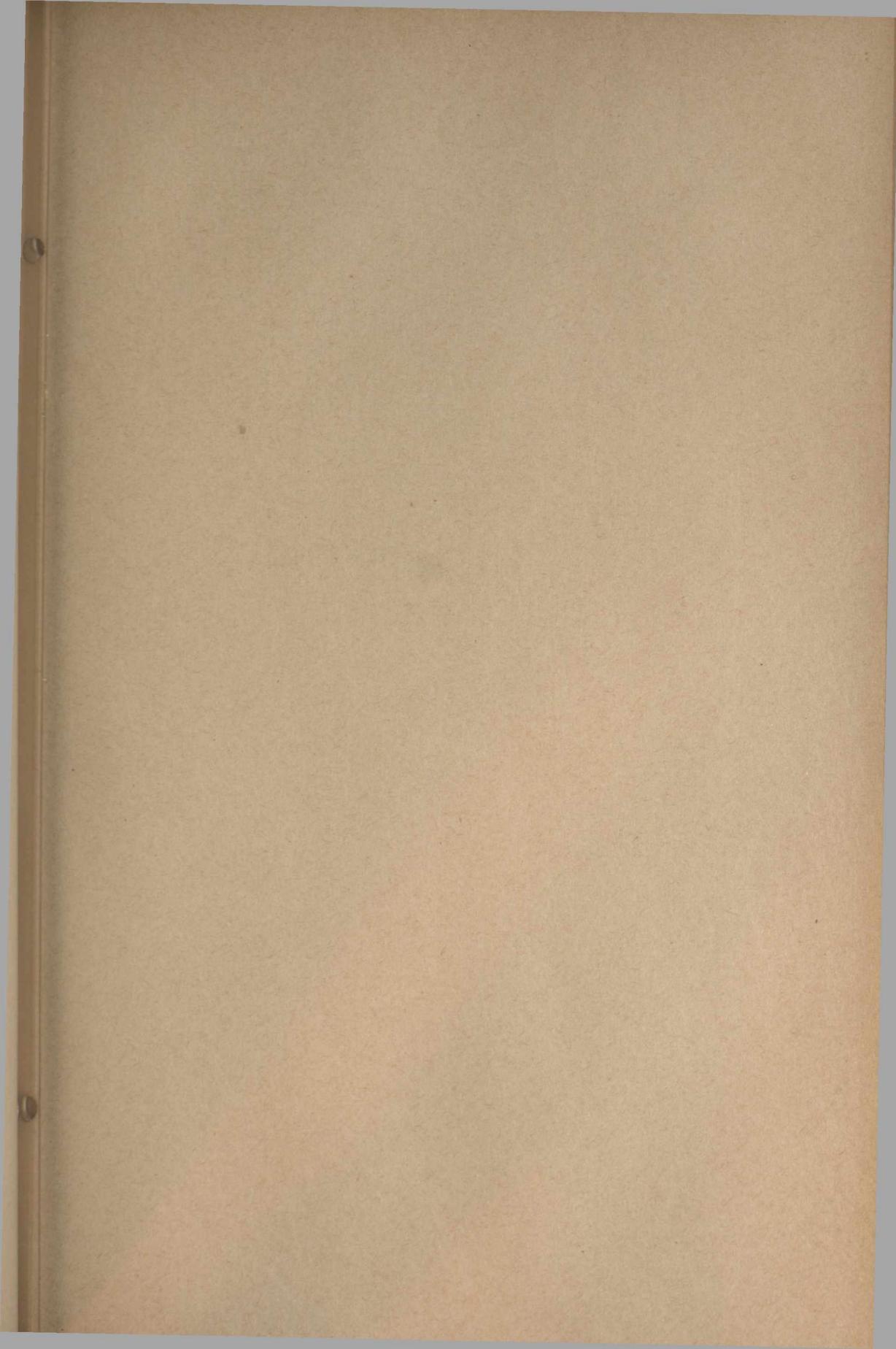
I suggest, sir, that air traffic conditions have been considered elsewhere, and starting *de novo* as we are, with no provisions on our statute books, it would be well to start with legislation which is proper for the purpose for which it is intended. In this country we have now come to a point in the development of air transport where classification of the position of the carrier is necessary. And

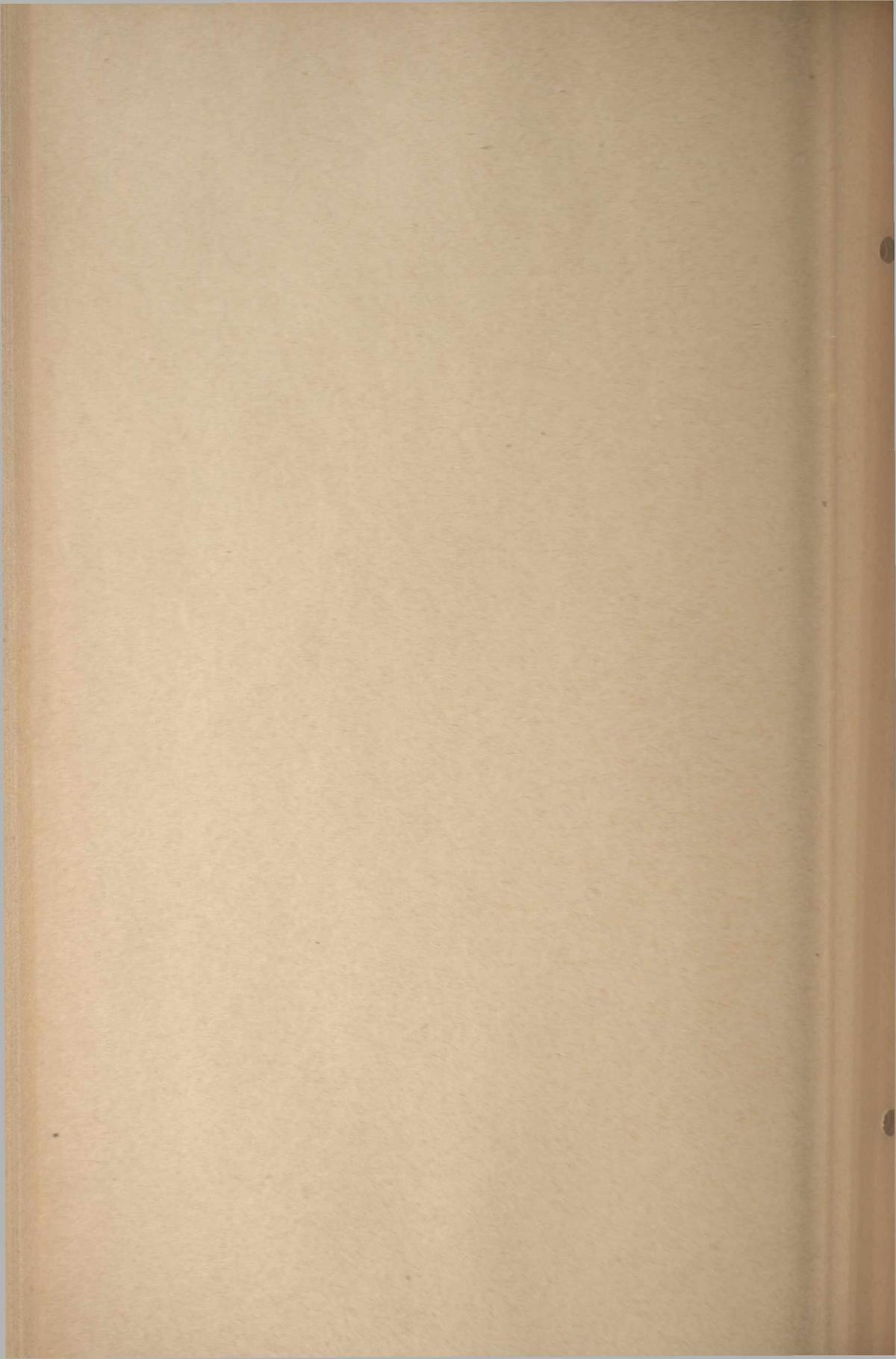
[Mr. Omond.]

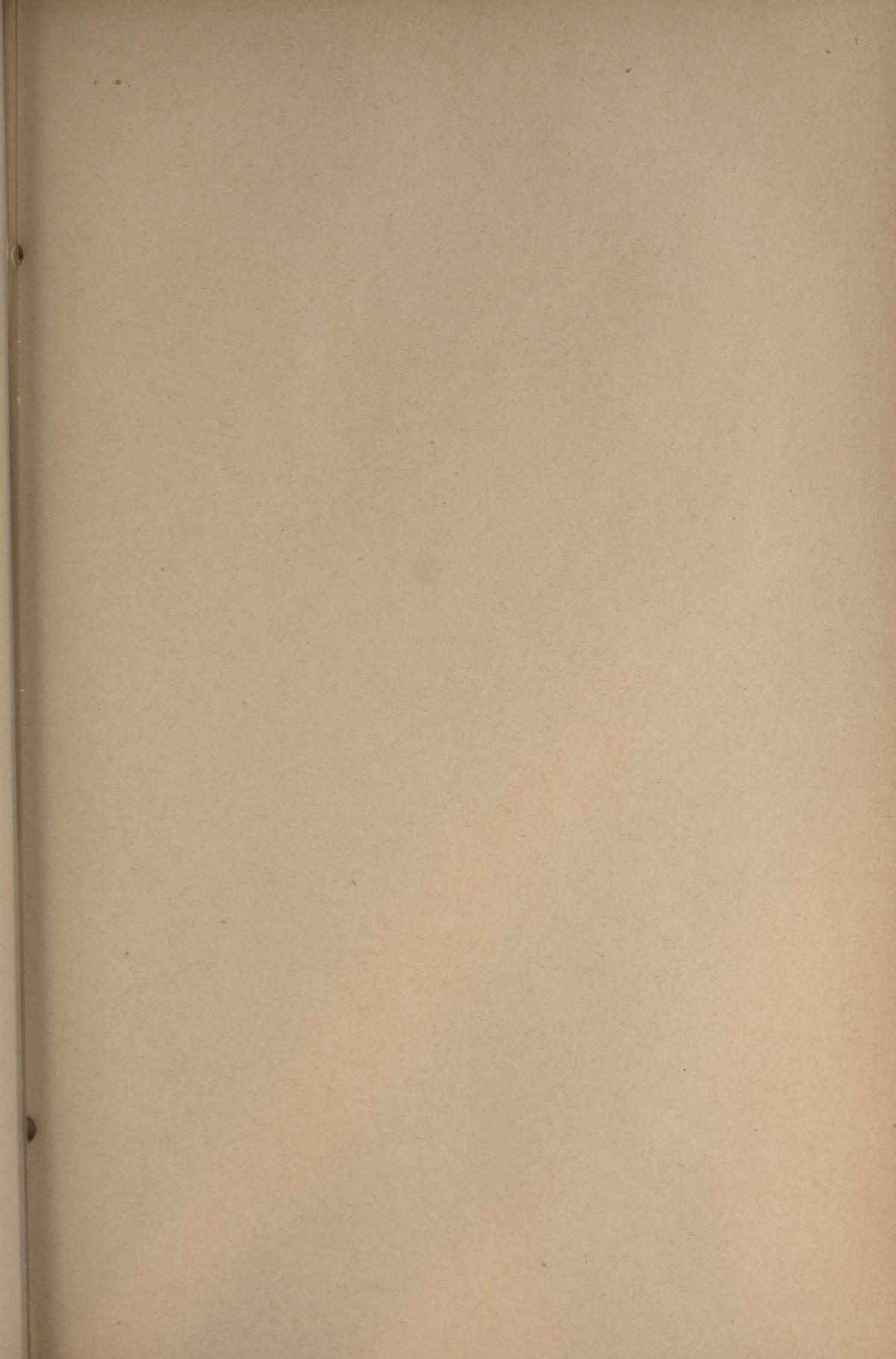
unlike most other countries we have a problem of a twofold nature—interurban or transcontinental and northern operations, which, as Mr. Brintnell has shown, are interlocking in character. I therefore respectfully submit to this Committee that now is the time to formulate legislation dealing with air transport as a whole, to include the objects of this Bill in so far as it relates to air traffic, which legislation will be directed to up-to-date administration and regulation in terms applicable to aircraft operation and not borrowed from statutes which have been designed to meet the requirements of an entirely different type of transportation.

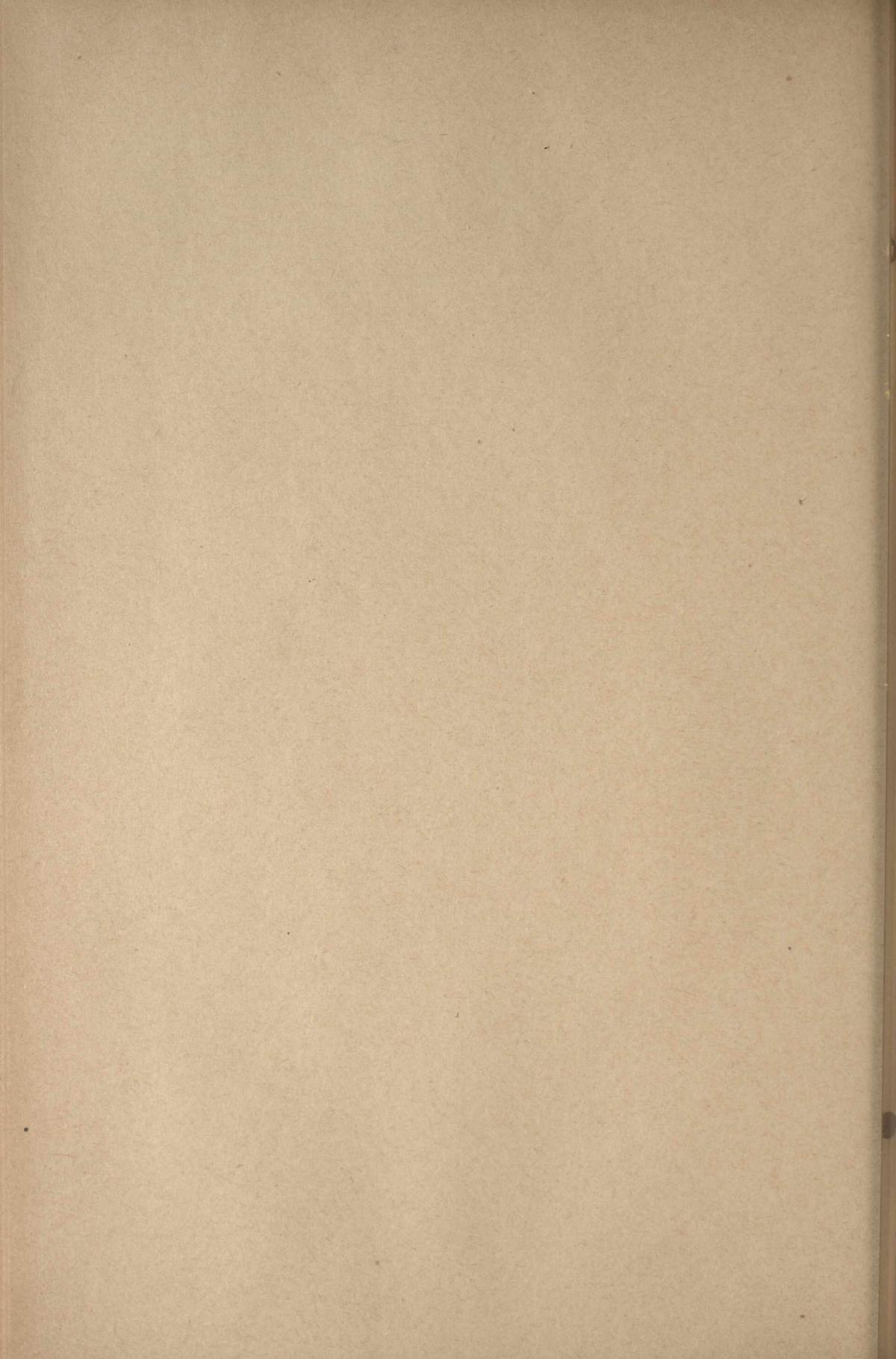
The Committee adjourned until to-morrow at 10.30 a.m.

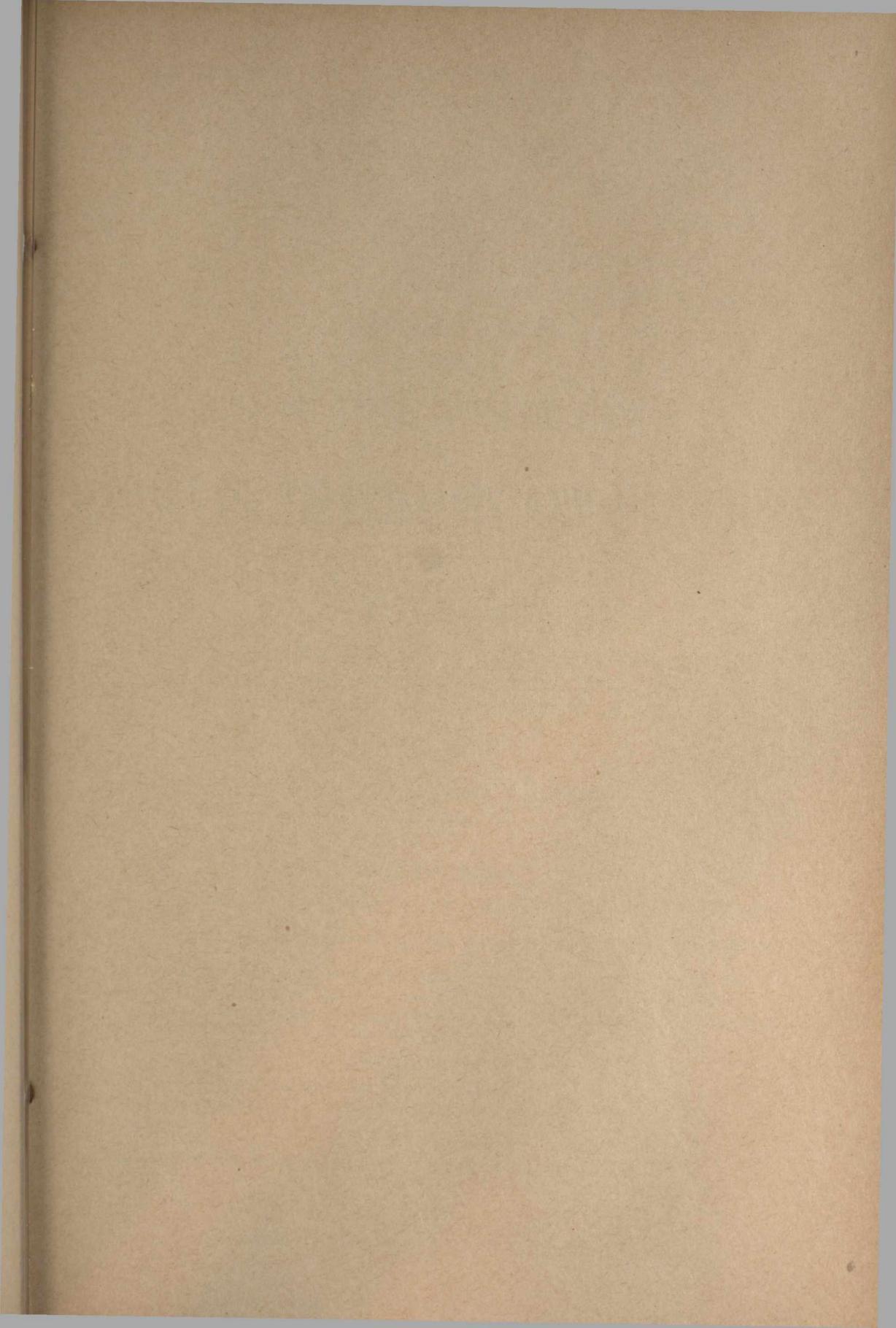


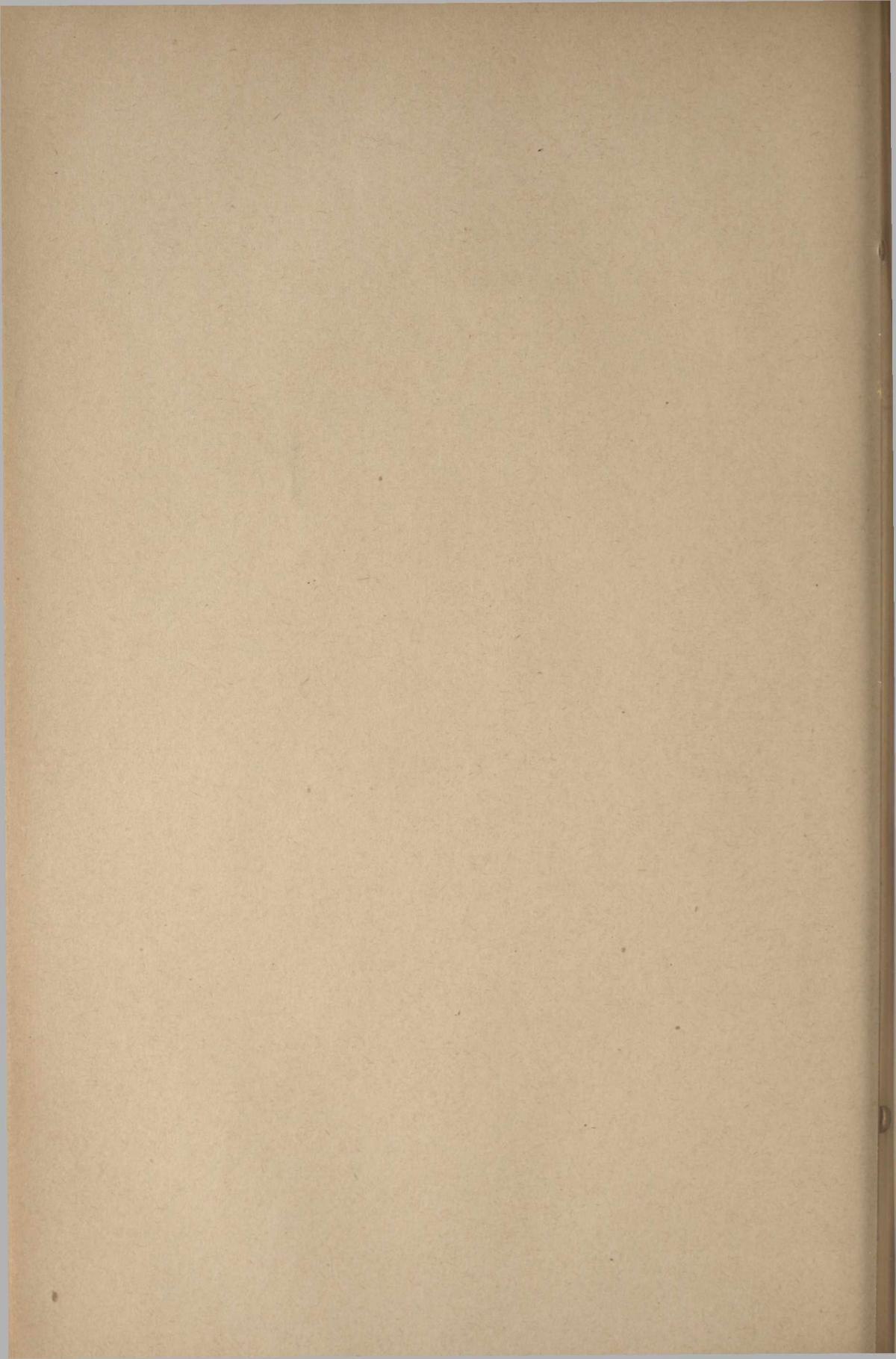












THE SENATE OF CANADA



PROCEEDINGS

OF THE

STANDING COMMITTEE

ON

RAILWAYS, TELEGRAPHS AND HARBOURS

ON

BILL B

An Act to establish a Board of Transport Commissioners
for Canada, with authority in respect of transport
by railways, ships, aircraft and motor vehicles

No. 6

The Right Honourable GEORGE P. GRAHAM, P.C.,
Chairman

WITNESSES:

- Mr. M. J. Patton, Ottawa, representing Canadian Automotive Transportation Association.
- Mr. M. J. Pape, Toronto, representing the Automotive Transport Association of Ontario.
- Mr. R. T. McCully, Moncton, N.B., representing Eastern Canada Air Lines, Ltd.
- Commander C. P. Edwards, Chief of Air Services, Department of Transport.
- Mr. W. L. Best, Ottawa, representing the Dominion Joint Legislative Committee of Railway Transportation Brotherhoods.

COMMUNICATIONS:

- Resolution from the Charlottetown Board of Trade.
- Recommendations from The Shipping Federation of Canada.

CORRECTION:

- By Mr. D. S. Ormond, Winnipeg, representing Wings, Ltd.

THE STANDING COMMITTEE ON RAILWAYS, TELEGRAPHS AND
HARBOURS

The Rt. Hon. GEO. P. GRAHAM, P.C., Chairman

The Honourable Senators

Arthurs
Ballantyne
Barnard
Beaubien
Black
Bourque
Buchanan
Calder
Casgrain
Copp
Dandurand
Dennis
Farris
Gillis
Gordon
Graham
Green
Griesbach
Haig
Hardy
Harmer
Horner
Jones
Lacasse
Laird

L'Espérance
Logan
MacArthur
Marcotte
McDonald (*Shediac*)
McGuire
McLennan
McRae
Meighen
Michener
Molloy
Moraud
Murdock
O'Connor
Parent
Pope
Rainville
Raymond
Robinson
Sharpe
Spence
Sutherland
Tobin
Turgeon
Webster—50.

(Quorum 9)

MINUTES OF EVIDENCE

THE SENATE,

FRIDAY, February 19, 1937.

The Standing Committee on Railways, Telegraphs and Harbours, to whom was referred Bill B, intituled "An Act to establish a Board of Transport Commissioners for Canada, with authority in respect of transport by railways, ships, aircraft and motor vehicles," met this day at 10.30 a.m.

Right Hon. George P. Graham, Chairman.

The CHAIRMAN: Gentlemen, Mr. Ormond, who spoke to us yesterday, wishes to make a correction.

Mr. D. S. ORMOND, Winnipeg, representing Wings Limited and United Air Services: Mr. Chairman and Gentlemen, I wish to correct a statement I made last night. In a hasty calculation I stated that eight of the aircraft being operated by Wings Limited were less than one year old. The fact is that seven of them are less than one year old.

Mr. M. J. PATTON, Ottawa, representing the Canadian Automotive Transportation Association: Mr. Chairman, I represent the Canadian Automotive Transportation Association, which is a federation of the Automotive Transportation Associations of the various provinces across Canada. The head office of the Dominion association is in Ottawa. I may say the association was formed only a month ago.

HON. MR. McRAE: What does the term "automotive" include?

Mr. PATTON: Our association is concerned only with trucks.

One of the first questions that comes to mind in considering a regulatory measure such as the one before the Committee is: Why is it necessary to regulate? The honourable the Minister of Transport, when explaining the Bill on Wednesday of last week, assured us that it was not designed to protect one industry against a competing industry, and that it was not his understanding that the Bill was sponsored by the railway companies to protect themselves. He also told the Committee he was convinced that we must do one of two things: either do away with the regulation of the railways, or apply regulation generally to their competitors. The Bill before us seeks to apply regulation to their competitors.

In so far as public commercial motor transport is concerned, there is at present a fairly smoothly working regulatory system carried on by the provinces, who, by virtue of the British North America Act, have exclusive jurisdiction over motor transport within their own boundaries. While the British North America Act remains as it is, the Dominion cannot invade that field. If it seeks to apply to the motor transport field regulative measures in addition to those now applied by the provinces, it can do so only with respect to inter-provincial and international traffic. One is constrained to ask how far this would be effective in accomplishing the object in view.

According to the Dominion Bureau of Statistics, there were registered in Canada, in 1935, 209,856 motor trucks including trailers. Only 10.9 per cent of these, or 22,927 vehicles were public commercial transports; that is, vehicles operating for hire. Of these 22,927 public commercial transports only a very

small proportion was engaged in interprovincial and international trade. There are no official figures available, but answers to a questionnaire just sent out by the Canadian Automotive Transportation Association to its member provincial associations indicate that possibly not over 370 vehicles are engaged in traffic over which the Dominion would have authority.

At this point I may say that I have an estimate—it is a little old, but I think it would be informative—made by Mr. Bernard Allen of the Bureau of Economics of the Canadian National Railways as to the tonnage handled by motor trucks. Mr. Allen estimated that in 1930 all classes of motor trucks moved approximately 2,800,000 tons of freight. In that period the railways moved 115,230,000 tons. Trucks, therefore handled only about 2.37 per cent of the total freight movement overland.

Referring also to public commercial vehicles, Mr. Allen estimated that in 1930 trucks carried 1,400,000 tons of freight, which is 1.42 per cent of what the railways carried.

Now, that movement is small in comparison with the total freight movement of the country, and to attempt to regulate that small proportion partakes of the tail wagging the dog.

The characteristics of the public commercial motor transport industry are so different from those of railways that we deem it unwise, even if it were practicable, to subject that industry to the scheme of rate regulation designed and built up over many years explicitly for railway rate regulation. Competition, as distinct from monopoly, is the very essence of motor transportation, and it may be depended upon to regulate rates so as to prevent the exploitation of the public. It seems to us as unfair and illogical to force motor transport into the regulatory mould provided by the Railways Act as it would be to compel the railways to come under such an Act as the Commercial Vehicle Act of Ontario.

Incidentally, we think that Bill B should not have indicated, merely by general reference, the portions of the Railway Act it is intended to apply to highway motor transport, as it does in sections 2, 13, 16 and 28.

The CHAIRMAN: You mean the sections already quoted?

Mr. PATTON: Yes. There should have been reprinted in full in the Bill all the sections of the Railway Act that it is sought to apply to highway transport. We have in the Railway Act a statute of about 200 pages—197 to be exact—a large part of which we are told in a more or less general way is to apply to motor transport. As nearly as can be calculated some 44 pages of the Act originally designed to apply only to railways are included in the portion which it is now sought to apply to motor transport. It would take a regiment of Philadelphia lawyers to figure out in the time now at our disposal just what all the implications of this application of the Railway Act mean.

The aim of the public commercial motor transport operator has been to secure stability of rates, based on the cost of the service performed plus a fair margin of profit; and considering that his industry is a relatively young one, he has, with the aid of the various provincial governments, made reasonable progress to that end.

It is not disputed that the motor truck is a very efficient and cheap instrument of transportation in its own special field, namely, in the haulage of finished products over relatively short distances in less than carload lots; and the public should be permitted to enjoy the conveniences and economies which this new form of transportation affords. The public interest, not the effect on the financial condition of the carriers, should be the paramount consideration. That the cheaper and more efficient form of transportation will eventually prevail in its own special field is inevitable by reason of basic economic law, although it may be delayed by unwise regulation. It is generally conceded that motor transport is here to stay, and that the public wants the benefits it brings them.

We feel that the placing of the regulation of rates under the Railway Board would tend to retard the development of public commercial transport, and would defer the passing on to the shipping public of the advantages which that form of transport is designed to give them. On these grounds, and on the ground that there is now sufficient machinery provided for the regulation of the industry under provincial authority, we oppose the placing of regulation under the additional jurisdiction of the Board of Railway Commissioners.

The views of the Canadian Automotive Transport Association on this subject of rate regulation by the Railway Board are well summarized in the presentation made by the Ontario Automotive Transportation Association in 1932 to the Royal Commission to inquire into railways and transportation in Canada. I quote it as follows:—

We believe that regulation should be effected by the Ontario Department of Public Highways or a competent regulatory board appointed by the Government of the province of Ontario, and we are opposed to regulation by the Board of Railway Commissioners of Canada. Our opposition to regulation by the last-named body is not to be construed as a criticism of a Board which we believe is composed of fair minded men well versed in the intricacies of railway administration, but quite apart from the fact that it appears to have no jurisdiction, we are of the opinion that its traditions, atmosphere and personnel are so bound up with railway interests that it could not give that disinterested consideration to the regulation of motor truck rates and operation which is essential to supplying the public with a flexible, efficient and reasonably-priced highway freight service.

It is well to remember that motor transport is a new industry, and that the various provinces have made satisfactory progress in regulating it in the public interest. Its heaviest volume of traffic is in the two central provinces. Ontario and Quebec in 1935 had 54·5 of all the trucks and trailers registered in Canada, and 70·01 per cent of all the public commercial trucks and trailers in Canada. Ontario was one of the first provinces to have a Commercial Vehicle Act, and it did not have one until 1928. The other provinces have followed suit. Ontario, which has registered 43·4 per cent of all the trucks and trailers in Canada, has a good Act and it can be said the Government has gone as far as public opinion justifies it in the regulation of the industry. I file for the information of the Committee a copy of the Ontario Commercial Vehicle Act, Part I of which deals with public commercial vehicles, which came into effect on the 1st of July last, and a copy of the regulations respecting the licensing of public commercial vehicles.

HON. MR. HARMER: The Province of Ontario has fixed passenger tariff rates. Has it ever attempted to fix freight tariff rates?

MR. PATTON: No. There is a provision in the Act for filing the rates.

HON. MR. HARMER: Do you not think that would solve some of the difficulties?

MR. PATTON: We do, and we are in favour of it.

HON. MR. LAIRD: Have some of the other provinces fixed freight rates?

MR. PATTON: Yes sir, New Brunswick and Manitoba.

HON. MR. McRAE: I take it that on short hauls the important thing is what you might call the drayage at both ends of the run. Would the operator consider that when fixing rates?

MR. PATTON: Oh yes, I think so. That is a big factor.

It may be said this Ontario Act and the regulations under it were enacted only after careful study and close co-operation by both the highway carriers and the shippers with the Department of Highways. It is to be noted that it

makes provision for the filing of tolls by public commercial vehicle operators. The province has a force of eight inspectors on the road all the time to see that the law is observed, in addition to the provincial police. The Ontario Municipal Board is required to issue a certificate of public necessity and convenience before any licence is issued.

The CHAIRMAN: That is the same for trucks as for passenger service?

Mr. PATTON: Yes. From December 1933 this Board heard 3,840 applications for such certificates, 1,733 of which were granted, and of this latter number 1,499 were for restricted licences. Our contention is the Dominion would be carrying coals to Newcastle in duplicating such regulatory work of the provinces, and for the very small volume—as has been shown—of traffic in interprovincial and international trade, it would not be worth the expense involved in duplicating all this provincial administrative machinery, leaving entirely out of consideration the retarding effect that multiple jurisdiction would have on public commercial highway transport. In nearly all our interprovincial traffic not more than two provinces are involved. It is not as it is in the United States, with trucks running through four or five different states. And all provinces work together harmoniously in regulating the traffic. Ontario and Quebec, between which the great bulk of the traffic moves, have a gentleman's agreement of a reciprocal nature whereby each province agrees to grant the same number of licences to run into the territory of the other.

The transport industry is in favour of regulation but it does not want a multiplicity of regulating bodies. It objects to the Dominion entering as still another regulating authority, with another set of licence fees, another set of fines, another set of operating regulations, another inspectoral staff and another rate and licensing tribunal before which time must be spent in making submissions. Fees and taxation are heavy items of expense to the industry. For example, in the Province of Ontario a public commercial vehicle of twelve tons gross weight, with pay load of approximately seven tons, pays for registration \$228, for its public commercial vehicle fee \$90, and when operating into Quebec pays also a Quebec registration of \$227 and a public commercial vehicle fee of \$10. These fees, added to the six cents gasoline tax, assuming 100,000 miles per year at six miles to the gallon, amount to a total of \$1,555 for the one vehicle. A series of Dominion licence fees on top of this is not relished, especially as Dominion regulation is considered unnecessary.

I come now to the consideration of subsection (i) of section 2 in the interpretation part of Bill B, a subsection which we view with great apprehension. As business people, we do not want to be mixed up with lawsuits, and that is what we are certain the subsection would involve us in. I ask you to read the subsection critically. There is no question that the Dominion has jurisdiction over interprovincial and international trade, and if the subsection had ended with the fourth line after the word "Canada," there could be no objection. The remainder of the subsection, after line 4, gives, however, an extraordinarily comprehensive definition of what interprovincial and foreign trade is, attributing to that phrase a connotation quite beyond the usual and making it include a large proportion of traffic wholly within a province which has always heretofore been considered as provincial traffic.

No matter how many bills of lading there are covering various movements of a shipment of goods, no matter how many carriers carry it, no matter how many times it may change ownership en route, once it crosses the border of one province and goes into another, all its prior movements within the province where it originates, all the tolls charged thereon, all the charges of warehouses in which it reposed and all the vehicles and drivers that carried it wholly within the originating province are brought under Dominion jurisdiction and under the regulations of the Board of Railway Commissioners. It would almost

[Mr. M. J. Patton]

seem that the draughtsman of the Bill, sensing the fact that interprovincial and international public commercial truck traffic as ordinarily interpreted was so small in Canada that it did not amount to anything, was determined to give the Railway Board a good sized job by reaching out with this far-fetched definition and dragging by the scroff of the neck, so to speak, a whole lot of provincial traffic within the jurisdiction of the Board.

I am informed that this method of acquiring jurisdiction, is, according to an Imperial Privy Council decision in a case closely paralleling this one, ultra vires of the Dominion, but of that you doubtless heard from the legal counsel for the provinces this morning. The public commercial motor transport industry is of the opinion that the Provinces will not permit this encroachment on their jurisdiction for a moment, without a legal fight; and frankly, we do not wish to be ground between the upper and the nether millstones of a series of Dominion-Provincial lawsuits. At times we would not know to whom we should pay tribute or by whom be regulated. Such things are bad for any business, and we earnestly urge the deletion of all the lines of this subsection after the fourth. We look on this subsection as legislating us into lawsuits, and we do not want to undergo the harrowing experience the insurance business has gone through in the past several years, as a shuttlecock in a Dominion-Provincial jurisdictional struggle.

There are a number of miscellaneous points with reference to certain sections of the Bill on which we would like to communicate our views to the Committee:

Section 14, subsection (2)—The word "lessee" should be deleted. Only owners should be given licences.

The CHAIRMAN: I do not know whether you could apply that to aircraft or not.

Mr. PATTON: We are referring only to Part IV of the Bill just now, which deals with transport by highway.

After subsection (5), section 14, a clause should be inserted to provide that those now operating interprovincial and international services under provincial licences should be automatically given Dominion licences.

The CHAIRMAN: That is the grandfather's clause?

Mr. PATTON: That is the grandfather's clause. The wording used for this purpose in the United States Motor Carrier Act, 1935, might well be adapted to this purpose. It would read—"If any carrier or predecessor in interest was in bona fide operation, as evidenced by a licence to operate from any province, as a carrier by motor vehicle on (date) over the route or routes or within the territory for which application is made and has so operated since that time, or if engaged in furnishing seasonal service only, was in bona fide operation on (date) during the season ordinarily covered by its operation, except in either instance as to interruptions of service over which the applicant or its predecessor in interest had no control, the Board shall issue such certificate without requiring further proof that public convenience and necessity will be served by such operation, and without further proceedings, if application for such certificate is made to the Board as provided in paragraph (number) of this section."

Section 14, subsection (6), and section 15—Provincial standards of efficiency, where they have been complied with by operators, should be accepted.

Section 22, subsection (4), paragraph (iii)—The words "of the same class" should be deleted. Any carrier or class of carrier should be heard.

Section 29, should be deleted as unnecessary and tending to cause controversy and strife. That has already been adequately covered to-day.

As to fines and penalties, it is easy to see from their size, running from a minimum of \$100 to \$1,000, that railway operations were in contemplation. We think these fines are a bit high for the small motor truck operator, most of whose sins will be due to ignorance of the law. I might point out that in the Province of Ontario's Commercial Vehicle Act the maximum fine is \$20. Our suggestion is that \$25 would be a fair fine.

Next for consideration is Part VI, Agreed Charges. This part begins with the words, "Notwithstanding anything in the Railway Act" for a very good reason. The genius of the Railway Act is that it prohibits discrimination, whether as between shippers, commodities or places. The very essence of these clauses respecting Agreed Charges is that they court and encourage discrimination, favouring the large shipper as against the small one; they are the shock troops of a cut-throat competition and should, we believe, be deleted in their entirety from the Bill.

The CHAIRMAN: Does not that principle prevail between a wholesale and a retail business? The man who buys goods in large quantities gets a better rate, and it is not considered unfair.

Mr. PATTON: It all depends on the degree, Mr. Chairman.

The CHAIRMAN: Somebody has to judge the degree.

Mr. PATTON: Contrary to the evidence given before the Committee that these clauses have worked beneficially in Great Britain, it is our understanding that they have caused intense dissatisfaction there to shippers and other forms of transport than the railways, and that they are strangling motor transport in Great Britain almost to the point of annihilation. In order to get opinions on their working in that country, we dispatched cables to several parties, as follows:

Canadian Government considering adopting agreed charges regulation. Kindly cable immediately effect of same on British motor transport industry.

Here are some of the replies:—

Hon. Mr. MOLLOY: If it is true that the trucks handle only from 3 to 7 per cent of the freight, why are they worrying? If it is also true that in every hamlet, village and town in the country there are a number of men, in some places as many as twelve, in the truck business, who owing to the price of the truck, licence, insurance, and cost of operation are carrying on a cut-throat competition, putting themselves out of business, and eating at the very vitals of the railways—railways which have cost this country hundreds of millions of dollars—do you think that is fair competition?

Mr. PATTON: It may be fair in the kind of traffic they are in. They may be performing that service in short-haul traffic cheaper than the railways can.

Hon. Mr. MOLLOY: They are not making any money themselves; I know that for a fact. In the district from which I come they admit they are not making any money. But they are taking that business away from the railways on which we have to depend twelve months in the year. The truckers work only a part of the year. I do not think the competition is fair to the railways.

Hon. Mr. GILLIS: In Saskatchewan the truckers keep in operation nearly all the year round.

Hon. Mr. MOLLOY: Not in Manitoba.

Mr. PATTON: I will now read some of the replies to our cablegrams. The first reply, from the Institute of Transport, reads as follows:

Institute of Transport as learned society embracing all forms of transport refrains as a body from expressing opinions on question of contentious transportation policy.

A shippers' association, known as the Industrial Transport Association, of London, replied:

Agreed charges not generally accepted. Dislike railway monopoly.

Mr. O'CONNOR: Railway monopoly is cut out of this Bill.

[Mr. M. J. Patton]

Mr. PATTON: A third cable we received stated:

Railway agreed charges having disastrous effects on British road transport as intended. Many traders sacrifice future advantages for immediate temporary benefits.

I have here also a number of extracts from two trade papers in Great Britain, Motor Transport and World's Carriers and Carrying Trades' Review, which I should like to put on the record.

The CHAIRMAN: I do not want to interfere with you, but I just want to point out that one gentleman read extract after extract from the same paper, Motor Transport, I think.

Hon. Mr. DANDURAND: You are covering the same ground, repeating.

Mr. PATTON: I have extracts from two papers here, sir. The first extract is from Motor Transport, issue of January 2 of this year. In an editorial entitled "Past and To Come—A Strenuous Year Ahead," the paper says:

The trade of the country is improving, there is plenty of work to do and road haulage has become more firmly established as a servant of the trading community. Yet the road transport industry commences a new year in a sorely tried state.

This is mainly due to legislation, the main object of which is to help the railways, and so a large and important industry performing a national service has to spend time fighting for its existence, time which could be better employed in the development of business.

That new legislation is coming we do not doubt. But it must be legislation to ensure relief from the harmful restrictions of the 1933 Act. A drastic amending Act is called for.

One good feature of the past year has been the awakening, somewhat belated it must be admitted, of the trading community to the fact that their choice of transport is gradually but steadily being lessened and that they are faced with the possibility of a railway dominated transport monopoly.

The second extract is from the World's Carriers and Carrying Trades' Review, of January 15, 1937. An editorial headed "Transport and Trader," says:

Mr. W. H. Gaunt, O.B.E., President of the Mansion House Association on Transport, speaking at a recent meeting of the Institute of Transport, held in London on the subject of transport from an operating trader's viewpoint, said the Salter Report of 1932 was a distinct gesture by all interests concerned towards reasonable amendment of the unsatisfactory conditions of that time, but in one direction at least, as drawn, he would not sign that Report again in view of the interpretation which, in practice, following law, had been put upon the renewal of "A" and "B" licences.

Mr. Gaunt, it will be remembered, was one of the representatives of goods transport by road on the Salter Committee.

The Trader is now aware that his freedom to choose the type of transport best suited to his needs is seriously threatened. He sees the railways endeavouring to strangle operators who run vehicles on the roads for hire or reward and, looking further ahead, he fears that the right he at present enjoys of being able to run his own vehicles is in peril and that he may in the not distant future be faced with the necessity of having to negotiate terms for carriage of his goods with those who have been successful in returning to the railways the complete monopoly they once enjoyed.

For a long time we have foreseen that the ancillary user of transport must be on his guard to protect his freedom of choice of transport, and as the threat to his position is now becoming more ominous our columns will be opened more widely in his defence.

During the passage of the Road and Rail Traffic Act to the Statute Book the then Minister of Transport said it would be agreed that sooner or later, whether by some agreement within the industries concerned or by other methods, a division of function was bound to come which would leave the various forms of transport to deal with those goods for which they were best suited. Surely this meant some form of co-ordination built upon a fair and equitable basis. Yet only last month, in the House of Commons, the Minister of Transport said he was not prepared to admit that injustice was being inflicted upon road transport and that although he was aware that many people had grievances he would deal with those with which he had power to deal.

The CHAIRMAN: I do not want to criticize, but do you think it is good argument to read long editorials and have them put on our records? They are not statements of fact; they are merely the opinions of some person.

Mr. PATTON: Well, it has been indicated that these agreed charges, which were practically lifted from the British legislation, were working out beneficially in Great Britain, and we want to give some opinions about that.

The CHAIRMAN: What you are reading now does not prove the charges are not working satisfactorily.

Hon. Mr. MURDOCK: Surely we can read these editorials for ourselves, if we want to. I heard one statement there referring to "the complete monopoly they once enjoyed." Presumably that has reference to the railways, at a time when there was not any other means of transportation.

Mr. PATTON: I can leave these statements unread, to go on the record.

The CHAIRMAN: But should we be asked to put editorials on the record? They are not statements of fact. Anyone can write editorials. I would take your views in preference to those of the writer of that editorial. The editorial writer is paid to write these things. I do not mean that is discreditable to him at all, but I am trying to point out to you that what he says are his opinions. Would any other body be asked to take them as evidence?

Mr. PATTON: I shall be guided by your wishes.

The CHAIRMAN: These statements are cluttering up the record.

Hon. Mr. ROBINSON: They are all about the same, are they not? About all they tend to show is that the legislation in England is not very effective?

Hon. Mr. McRAE: Mr. Chairman, are we not here to listen to the views of the Association which this gentleman represents, and those only? We do not want him to give us the views of the press.

The CHAIRMAN: That is another way of putting it. I think it is hardly fair to ask that we listen to article after article expressing the opinions of someone. But this Committee will have to form its own opinion from the facts presented to it.

Hon. Mr. GRIESBACH: It is a question of the manner of presentation of the case. The witness is not presenting his case very effectively.

The CHAIRMAN: I do not think you are doing your case any good, Mr. Patton.

Hon. Mr. ROBINSON: I suppose he might mention that he has other editorials from such-and-such papers.

[Mr. M. J. Patton]

Mr. PATTON: There is one point that has been brought out, and that is that the railways have apparently put on a barrage opposing all applications for renewals of the A and B licences, causing heavy expenditure on the part of those who have to defend them. One man says it cost him over four hundred pounds.

The CHAIRMAN: That is in England?

Mr. PATTON: Yes, to defend his licences. And the British Act is being amended now in certain respects to overcome some of these difficulties.

Hon. Mr. ROBINSON: Are all these editorials from motor journals?

Mr. PATTON: One is from Motor Transport and the other is from the World's Carriers and Carrying Trades' Review.

Hon. Mr. GRIESBACH: Both are trade papers?

Mr. PATTON: Yes.

Hon. Mr. DANDURAND: They have the same trend of thought?

Mr. PATTON: A similar trend of thought.

Hon. Mr. GRIESBACH: The witness has been talking about agreed charges and the effect which it is claimed they have had in England, and he apparently wants to argue that they would have the same effect here. All we need to know is that there is such a possibility. We have already been told that conditions in the two countries are so dissimilar that they cannot be considered as on all fours at all.

The CHAIRMAN: We do not want to deprive you of any opportunity to present your case, Mr. Patton, but I think Senator Griesbach has expressed the point very well. I think you have shown us clearly that you fear agreed charges would produce the same results here as in Great Britain.

Mr. PATTON: We consider this part unnecessary, since sections 328 to 332 and section 344 of the Railway Act appear to give the railways every facility for making and quickly putting into effect the rates they desire to quote. Mr. Evans, in his evidence last week at page 30, said that highway competitors are to-day doing part of their business under contract. This, according to our information, is not the case. In Ontario, where there is the largest registration of public commercial vehicles, of the 953 general freight haulers who operated 3,520 vehicles as at January 6 last, there were only 50 contract carriers, and they operated only 243 vehicles, or less than 7 per cent of the vehicles licensed to haul freight in the province. The number of formal legal freight contracts in existence between interurban transport operators is very small.

It would seem that the small business man is the one who would suffer most if this part were enacted. The big concerns with the large traffic volume would undoubtedly get the lower rates. Furthermore, by making a lump sum contract for a year's haulage the large concern would effectively shroud what freight rates he paid on each of the several lines of goods handled. If, for example, Woolworth's in Canada were to make an agreed charge contract to carry all their goods at a certain lump sum for a year, a hardware merchant, say, in Kingston who is competing with Woolworth's—Woolworth's handle a good many fast-selling hardware lines—would not be able to know what his competitors, Woolworth's, were paying for the hauling of their hardware.

Hon. Mr. GRIESBACH: Do you mean that otherwise rates are made public so far as that business is concerned?

Mr. PATTON: I mean if a lump sum for carrying all the Woolworth's business is agreed upon, the competitors of Woolworth's do not know what they are paying more or less for their freight.

Hon. Mr. GRIESBACH: No. What you ought to say, it seems to me, is that the competitor in Kingston would not know; but Woolworth's competitors as a whole would know; all they have to do is to get the volume of business and the rate charged.

Mr. PATTON: My point is that in the agreed charges there are a good many kinds of goods handled. Woolworth's operate variety stores.

Hon. Mr. GRIESBACH: You mean the man in Kingston would not know?

Mr. PATTON: No, nor in Belleville or any other place.

Hon. Mr. ROBINSON: There would be no rate at all on anything, just a lump sum?

Mr. PATTON: That is my point.

Hon. Mr. HARMER: The railways have a rate classification; the truckers have not.

Hon. Mr. ROBINSON: Can your truckers do that to-day?

Mr. PATTON: The rates on trucking business are pretty well known. If you want to get a rate, all you have to do is to call up a trucking company.

Hon. Mr. ROBINSON: But you can give a rate to Woolworth's or anybody else?

Mr. PATTON: Yes, but I do not know that it is done.

The CHAIRMAN: That is the result of business being done in a large way, and it is one of the troubles of unclassified business. They charge what rate they like.

Hon. Mr. ROBINSON: The point is, the truckers whom this gentleman represents have the power to do that to-day; but he objects to that power being given to the railways.

Hon. Mr. McRAE: Mr. Chairman, is not this method of transportation about where our railways were before we established the principle of one rate for all shippers? That is, are not the big shippers, such as Eaton's, Woolworth's, and others getting tenders for their carrying by the year? They can secure, for business reasons, a lower rate than the small shipper.

Mr. PATTON: My understanding is that that is not the general practice.

Hon. Mr. McRAE: It is not the general practice, but it does prevail?

Mr. PATTON: There are very few of such contracts. We have here Mr. Pape, of the Ontario Association, where most of that sort of thing would happen, if it were in effect. I would suggest that Mr. Pape indicate to what extent in his knowledge as a practical operator contract agreements are made covering whole shipments for a year. Perhaps he could tell us how many are current now.

Hon. Mr. DANDURAND: We can call him after you have finished your statement.

Mr. PATTON: Yes. It should be kept in mind that conditions are vastly different in Canada from those prevailing in Great Britain. Our distances are very great, and Ottawa, where agreed rates would be filed and most of the hearings heard, is a long way from British Columbia and the Maritime Provinces. The Chairman of the Railway Board said he could administer the Act with the machinery he had, but he would need a larger personnel. We believe that when the thousands of applicants for agreed charge hearings began to flow from all over Canada into Ottawa, he would have to look for more buildings to house the extra staff and records needed. We view this part as very difficult, if not impossible, to administer, as productive of an intensity and fierceness of competition that we have been striving to avoid, and we submit that it should be deleted from the Bill.

In conclusion, we submit likewise that Part 4, for the reasons given, as well as all other references to highway transport, be deleted from the Bill. Provincial regulatory machinery, that is closer to the needs of shippers and carriers alike than Ottawa can be, is already provided for or is in existence, and is functioning satisfactorily with no questions raised as to its jurisdiction.

[Mr. M. J. Patton]

Interprovincial and international motor transport is so limited in volume that it would seem a needless extravagance to set up duplicate administrative machinery under the Dominion, and a needless additional burden to lay upon that form of transport.

Finally, if we may be permitted, we would suggest that the Dominion can be most helpful to both shippers and motor transport by following up its efforts of co-ordinating and unifying provincial administrative efforts, as suggested in the Duff Report of 1932. That report reads:

The federal and provincial governments in co-operation should examine this question of the regulation and taxation of road motor vehicles with a view to equalizing the conditions under which road and rail transport is carried on, and to securing uniformity throughout the Dominion. A joint inquiry in which both federal and provincial governments were represented should enable a measure of agreement to be reached upon the general principles which should govern the regulation and taxation of motor vehicles using the public highways. The administration and adaptation from time to time might be left to a consultative committee consisting of representatives of the various provincial governments and of the federal government.

Following out that suggestion, the Dominion Government, through the Department of Transport, has convened several Dominion-Provincial conferences at which this subject has been discussed. An officer of the Department has been studying motor transport, and the Department, in its efforts at co-ordination, has compiled a model Motor Carrier Transportation Bill for submission to the provinces, in the hope that they will model their provisional Acts after it insofar as it can be made to apply to provincial conditions. We submit that the proper approach to this problem is along the lines laid down in the Duff Report and in the resolutions adopted by the Committee on Tourist Traffic and Transportation of the Dominion-Provincial Conference of 1935, which read as follows:

It was resolved to submit eleven recommendations which are set out below, and which refer only to vehicles used for the transportation of passengers and freight for hire which are specifically licensed by the provinces for highway transport—taxi and delivery service vehicles not being included.

(1) That the Minister of Transport arrange to collect information regarding rates prescribed or charged by public carriers of freight and passengers in the various provinces and rates charged by the railway companies and communicate such information to the provinces to the end that a fair and equitable basis may be arrived at for the establishing of uniform rates for highway transportation of passengers and freight.

(2) That the principle that carriers of passengers and freight for hire shall be required to carry insurance covering all risks be endorsed.

(3) That operators of vehicles for the transportation of passengers and freight for hire be required to keep accounts of their operations and to submit returns to the provincial authority in such form and at such intervals as may be required.

(4) That legislation be enacted by the provinces limiting the hours of labour of drivers of vehicles used for the transportation of passengers or freight for hire.

(5) That in the interests of public safety a standard of fitness should be required of all vehicles used in the transportation of passengers or freight for hire.

(6) That in the interests of public safety a standard of physical fitness as evidenced by a certificate of a medical practitioner be required of all drivers of vehicles used in the transportation of passengers or freight for hire.

(7) That a licence should only be granted for the operation of vehicles for the transportation of passengers or freight for hire where it can be proved to the satisfaction of the licensing authorities that the service proposed is a public necessity and convenience.

(8) That every province establish a fair standard of wages to be paid to the drivers of vehicles used in the transportation of passengers or freight for hire.

(9) That with a view of securing a uniform Act for all provinces covering the operation of vehicles used in the transportation of passengers and freight for hire the Department of Transport secure the legislation and regulations now in existence dealing with such vehicles and submit this information to the various provinces.

(10) That valuable services can be rendered to every province in Canada if a permanent committee consisting of representatives of the provinces be set up with a secretary established in the Department of Transport, whose office would collect and distribute data relative to legislation and regulations in effect or contemplated in various jurisdictions.

(11) That the principle of securing basic uniformity and comparability in the matter of road transport statistics be endorsed by this Conference, and that instructions be issued to the Dominion Bureau of Statistics to proceed with the discussion of a detailed plan with the provincial authorities to the end of meeting what has become both a provincial and national necessity.

That, Mr. Chairman, concludes my case.

Hon. Mr. MACARTHUR: Mr. Patton, we all know about the system of the railroads with L.C.L. and C.L. rates. We heard it explained a day or two ago. We were told about the consolidating of shipments, that brokers took a hand in that and procured a much lower rate for the benefit of the consignee. Have you got such a system in your rate structure that would put these different items of first, second and third-class freight into a full truck-load and permit a lower rate than is given to sundry shipments going over the same route to several consignees?

Mr. PATTON: I will ask Mr. Pape to answer that.

Hon. Mr. MACARTHUR: You must know.

Mr. PATTON: According to my personal knowledge, no.

Hon. Mr. MACARTHUR: Do you follow the railway system of first, second and third-class freight?

Mr. PATTON: Yes.

Hon. Mr. MACARTHUR: And you go below that 15 or 20 per cent?

Mr. PATTON: Sometimes we go below, sometimes not.

Hon. Mr. MACARTHUR: Have you ever considered that the railway companies might abandon some of their lines and put on motor trucks?

Mr. PATTON: That is quite possible.

Hon. Mr. MACARTHUR: Would not that have a detrimental effect and put some of the motor truck companies out of business?

Mr. PATTON: They would not get a licence unless public necessity and convenience were proved.

[Mr. M. J. Patton]

Hon. Mr. MACARTHUR: You can see a possibility of many of these motor truck companies being eliminated in the future, can you not?

Mr. PATTON: You mean if the railroads started to operate motor services on the roads? Of course, most of the Provinces, I think all of them, require a certificate of public necessity before they will grant a licence.

The CHAIRMAN: Who wishes to speak to us next?

Mr. M. J. PAPE, representing Automotive Transport Association of Ontario: Mr. Chairman, I will confine my remarks to answering a question that was asked by an honourable senator. The question, as I understood it, was whether there are any legal and binding contracts with motor truck carriers. There are very few contracts of that type.

Hon. Mr. McRAE: I was instancing the case of a big shipper like the Woolworth Company. I would naturally expect that they would ask for a tender or bid, but whether they do or not I should think that they would get a better rate than a small shipper. What I wanted to know was whether you gave the same rate to a big shipper as to a little shipper.

Mr. PAPE: No, we do not. The fact is that very often the little shipper is in a position to do chiselling more finely than the big shipper, because of the personal contact.

Hon. Mr. McRAE: Do you take that into consideration, as a transportation agency?

Mr. PAPE: Well, I do not wish to divert from the question. The fact is that unfortunately in the Province of Ontario, at any rate, we suffer from lack of rate stabilization. That is something we are seeking in Ontario. They have it in Manitoba and in Saskatchewan, and they will have it in Alberta by the first of April. In Ontario we have made a very definite attempt to effect rate stabilization. I might mention here a very interesting effort that we made. We have circularized three thousand shippers in the Province of Ontario, asking them for their opinion, asking whether they are in favour of compelling truck operators to file and publish tariffs so that discrimination will not be permitted. Now, I do not know how many of you honourable gentlemen have had any experience in asking for replies through the mail, but it is interesting to note that we have received a surprising number of replies. We received approximately one thousand replies, and of that number there were only between fifty and sixty in the negative.

The CHAIRMAN: Who did not want stabilization?

Mr. PAPE: Who did not want trucks to file tariffs. I merely mention that as I felt the committee might be interested in knowing that truckers generally desire rate stabilization.

Hon. Mr. MACARTHUR: I asked a question along the same line as Senator McRae. Railroads have special rates for carload lots as distinct from L.C.L. shipments. Do you sometimes have large shippers who will give you a truck load? And if so, are you allowed under the regulations to give a special rate?

Mr. PAPE: Under the regulations in Ontario we are allowed to quote any rate. In Manitoba there is a very definite rate set by the Department of Highways, as there is in Saskatchewan, and as there will be in Alberta. In Ontario there are no classifications of freight.

Hon. Mr. MACARTHUR: You do not follow the railway system at all?

Mr. PAPE: Well, in certain parts of Ontario to-day the railways do not classify their freight either; they have established what is known as a competitive pickup and delivery rate, in the southern part of Ontario and also as far north as Scotia Junction, North Bay.

The CHAIRMAN: They come east?

Mr. PAPE: They have revised the classification east, but they still classify freight in eastern Ontario.

Hon. Mr. HORNER: If the Provinces are supposed to grant licences only in cases of public necessity, your companies must surely have found that the Provinces have been very lenient in permitting them to operate?

Mr. PAPE: I do not agree with that, sir. In Ontario the Department of Highways has turned over the granting of certificates of public necessity and convenience to the Ontario Municipal and Railway Board, and in order to obtain a certificate it is necessary to prove public necessity and convenience before this Board. From December, 1933 until August, 1936 the figures show that of 3,259 applications, approximately 1,400 were granted, and of those 1,400 only seven were unrestricted common carrier licences.

Hon. Mr. HORNER: I know there cannot be anything more unfair than the conditions which exists in certain parts of the West. Between Winnipeg and Saskatoon there are two railroads, running summer and winter, giving all the services of every description that any country could require. But in the summer trucks are on the highways, depriving railways of revenue, in many sections where the railways go to great expense to maintain service throughout the year, in winter as well as in summer. If I were running the railway in some of those places I would feel like staging a sit-down strike.

Mr. PAPE: We admit that is very unfair. You are perfectly right, sir. The fact is that in Ontario, though, all the railroads are given the opportunity of making representations before the Ontario Municipal Board, to show whether they are giving sufficient service. So far as I know their representations are very carefully listened to and given due consideration.

Hon. Mr. MACARTHUR: I do not think the question I asked has been fully answered. You must have some system analogous to that of the railways. As I understand it, you sometimes are offered a truckload shipment, just as the railways are offered a carload. Now, under the regulations are you permitted to give a better rate for a truck load than for less than a truck load?

Mr. PAPE: There are no regulations, but we do so.

Hon. Mr. MACARTHUR: Then obviously the large shipper has a preference.

Hon. Mr. ROBINSON: You object to this Bill, do you?

Mr. PAPE: To certain portions of it.

Hon. Mr. ROBINSON: But you are in favour of regulation?

Mr. PAPE: Oh, yes.

Hon. Mr. ROBINSON: I am trying to understand what you really want, whether you are in favour of the Bill or opposed to it.

Mr. PAPE: We are in favour of regulation. I believe that is pretty clear.

The CHAIRMAN: You are in favour of stability of rates, are you not?

Mr. PAPE: Decidedly. But we are not in favour of the agreed charges part of the Bill.

Hon. Mr. ROBINSON: It applies to you as well as to the railway.

Mr. PAPE: We do not think that is the solution. I wish to make clear to the Committee, though, that I have not obtained the views of our Association. Any views that I am now giving to you may be my personal views.

Hon. Mr. ROBINSON: I do not want to get you into any trouble.

Mr. PAPE: I have no objection to giving you my personal views.

Hon. Mr. MACARTHUR: You stated that in some provinces there were stabilized rates and in other provinces there were not. Which situation is preferable?

[Mr. M. J. Papel]

Mr. PAPE: The boys in Manitoba, when we met them, appeared very happy with their stabilized rates. They think Ontario is lagging very far behind. In Manitoba they suffer from not being able to meet carload rail rates. They are permitted to make a reduction on one class where the shipment is 10,000 pounds or more, but that reduction does not let them go as low as the carload rail rate. In spite of that, however, they are pretty happy.

Hon. Mr. ROBINSON: What maximum weight are you allowed to carry on the roads of Ontario in your trucks?

Mr. PAPE: The maximum load is governed by the size of your tires. But provided the width of tire is sufficient, and provided the two axles have a certain wheel base, the maximum weight for two axles, that is one front axle and one rear axle, is 20,000 pounds gross. That is for a straight truck. Another method of hauling freight is by tractor and semi-trailer units. In the case of those we are permitted to license the tractor with two axles for 20,000 pounds gross; and the semi-trailer, with one axle, for an additional 15,000 pounds gross, making a total of 35,000 pounds gross.

The CHAIRMAN: On three axles?

Mr. PAPE: Yes. If you add an axle to your tractor, you are permitted an additional 10,000 pounds.

Hon. Mr. GRIESBACH: To your trailer, you mean?

Mr. PAPE: No, to the tractor. If you add an axle to the trailer you are permitted an additional 5,000 pounds gross; so that it is possible, with five axles, to carry a total of 50,000 pounds gross.

Hon. Mr. MACARTHUR: Is that all the year round?

Mr. PAPE: There is a provision in the Highway Traffic Act to restrict the load, but that is not arbitrary.

Hon. Mr. McRAE: You do add a trailer behind the semi-trailer, sometimes?

Mr. PAPE: Yes.

The CHAIRMAN: What is the maximum speed now?

Mr. PAPE: Unless the law has been revised since we left Toronto, the maximum speed is 20 miles an hour in the municipalities and 35 miles an hour on the highway.

Hon. Mr. ROBINSON: I never saw a truck go as slowly as 20 miles an hour.

Mr. PAPE: The complaint is that they go slower.

Hon. Mr. McRAE: I think that many of us feel that these big semi-trailers, with a trailer behind, do not pay sufficient. If we knew what it costs to operate an outfit of that kind for a year, it would be enlightening.

The CHAIRMAN: As the law and the constitution now stand, that is none of our business.

Hon. Mr. MACARTHUR: What mileage per gallon do you get with an average truck?

Mr. PAPE: On a six-cylinder truck hauling 35,000 pounds gross, our mileage per gallon of gasoline is between five and six miles.

Hon. Mr. McRAE: What does it cost to operate that truck on a mileage basis per mile?

Mr. PAPE: Our experience for 1935 reveals that the cost of operating a tractor and semi-trailer carrying a gross of 35,000 pounds is about 15 cents a mile. That does not include any overhead. That is the actual highway operation.

Hon. Mr. ROBINSON: Does it include the operator?

Mr. PAPE: The driver's wages.

The CHAIRMAN: No repairs?

Mr. PAPE: It includes repairs and depreciation. Some of our operators in Ontario, I understand, find that their costs run as high as 20 cents a mile.

Hon. Mr. McRAE: What percentage of the 15 cents would be charged to gasoline per mile?

Hon. Mr. HORNER: That is not taking into account replacement of your machine?

Mr. PAPE: Yes, depreciation is taken into consideration. It figures out about three cents a mile for gasoline. That does not look right to me.

Hon. Mr. McRAE: What is the average price of gas?

Mr. PAPE: Fourteen cents plus six cents tax. That is the average price in Toronto.

Hon. Mr. MACARTHUR: In the event of the new carbureter giving the results that are promised, you would be able to revise your tariff downward?

Mr. PAPE: If we are foolish enough to give the saving back to the customers.

Hon. Mr. ROBINSON: You do not use the diesel engine?

Mr. PAPE: No, not yet.

May I add, Mr. Chairman, that no questions were asked as to my opinion with reference to part 4 of the Bill. I might have given the impression that I am in favour of that part which refers to transport by highways. I am not.

The CHAIRMAN: I am not sure that I should be in favour of it if I had the protection from competition which your people enjoy. You have told us practically that under stress you can charge any rate you like.

Mr. PAPE: That is not desirable. We could do so, but we would rather have some type of rate regulation.

The CHAIRMAN: Now we will hear Mr. McCully.

R. P. McCULLY (Eastern Canada Air Lines Limited, Moncton, N.B.): Mr. Chairman and gentlemen, I am from the East and I have no quarrel with these plans whatsoever. We have a different situation down there from that which any of the other air men have had, I think. It is purely interurban traffic that we are trying to establish, and as yet we hardly know ourselves very much about it. We are attempting to find our own feet.

Hon. Mr. DANDURAND: Where are you located?

Mr. McCULLY: In Moncton, sir.

Hon. Mr. GRIESBACH: What are your routes?

Mr. McCULLY: Moncton, Saint John Halifax, New Glasgow, Sydney and the Island points. It is a purely feeder line.

The CHAIRMAN: You do not go to Prince Edward Island?

Mr. McCULLY: Not as yet, sir, but I understand from reports in the last couple of days that we might be allowed to do so.

Hon. Mr. McRAE: You are going to get a licence?

Mr. McCULLY: Well, reading Thursday's report, I think perhaps we can if we live up to certain regulations. Our greatest trouble so far, I think, has been remote control of our situation. Things happen here and are all over before we know what has happened. Our Air Board control things pretty well at present; we get along fairly well with them. But the tariff end of this situation is what we are worrying about. We do not know what we should charge ourselves. We know what we should like to get. I think if the Bill were to bring all transport rates up to what we should like to charge, we should be in a more receptive frame of mind. We have to get higher rates than any other form of transportation, particularly if we have no assistance. We are attempting at the present time to put through a contract with a firm for freight, and we are just feeling our way. We know if our prices are prohibitive we won't get the business; and we know if they are too low we shall ruin ourselves.

[Mr. Pape.]

The CHAIRMAN: You might better not get the business.

Mr. McCULLY: Yes. I am in accord with some of the things the other operators have said, but I should like to say again that our position is not comparable to the Northern. I know nothing about the Northern situation except what I hear; we have never operated up there. We are trying to give a service that is purely interurban in every sense of the word.

Hon. Mr. MACARTHUR: You think there is a field there?

Mr. McCULLY: I believe so, sir. I have spent eight or nine years down there and I have watched the trend of events since 1921. When we first started doing business there we carried, I think, fifteen passengers between your province, Senator, and the mainland. To-day that figure is getting close on to the 1,800 mark.

Hon. Mr. ROBINSON: What are the companies operating there?

Mr. McCULLY: Canadian Airways operate to the Island.

Hon. Mr. ROBINSON: Where do they operate?

Mr. McCULLY: Moncton, Charlottetown, Summerside, Halifax, Saint John and return.

Hon. Mr. ROBINSON: They have a monopoly of that service, haven't they?

Mr. McCULLY: I do not know, sir. We have not as yet been able to run there.

Hon. Mr. MACARTHUR: Have you ever been called upon to make emergency flights to supplement Canadian Airways service?

Mr. McCULLY: Yes, sir.

Hon. Mr. MACARTHUR: Were you penalized in any way?

Mr. McCULLY: No. I think Canadian Airways were quite pleased to have us aid them. It held their end up and the public got satisfaction for the money they were paying. It has only happened once or twice, and now they have two machines to take care of it. They prefer to do that, I suppose, instead of paying us.

Hon. Mr. MACARTHUR: Were you carrying out all the regulations in those flights?

Mr. McCULLY: As far as we attempted to, but I don't know that we broke any air regulations.

Hon. Mr. MACARTHUR: If you were allowed to do those emergency flights, can you say why you were not permitted to continue regular flights?

Mr. McCULLY: I cannot answer that, sir, I do not know myself.

Hon. Mr. MACARTHUR: It is a mystery to you.

Hon. Mr. COPP: I understand, Mr. McCully, that you do fly from Saint John to Moncton?

Mr. McCULLY: We have been, sir.

Hon. Mr. COPP: Suppose you pick up a passenger from Saint John for Charlottetown?

Mr. McCULLY: We cannot take him unless he charters a machine specially. Of course, when he charters a machine he pays both ways for a full load, so it is prohibitive. The cost would be roughly \$50 as against \$8.

Hon. Mr. COPP: But you pick up your passenger at Saint John and get him to Moncton. Then you cannot get him any farther. Why?

Mr. McCULLY: We cannot go on a regular schedule, we have not been allowed to as yet.

Hon. Mr. COPP: Who prevents you?

Mr. McCULLY: The Air Board of Civil Aviation.

Hon. Mr. BALLANTYNE: Stationed here?

Mr. McCULLY: Yes.

Hon. Mr. ROBINSON: They allow you to bring a passenger to Moncton?

Mr. McCULLY: Yes.

Hon. Mr. ROBINSON: But don't allow you to take him to Charlottetown?

Mr. McCULLY: That is correct. When I say they allow us to do things, I think we get the words "licence" and "permit" mixed. We have not a permit unless we live up to certain regulations, which we have attempted to do as fast as is humanly possible. We cannot do them overnight. We are making every attempt to live up to the regulations and make a safe run, because if we kill or harm passengers in any way it hits us probably worse than anybody else.

Hon. Mr. ROBINSON: Have you the equipment to fly passengers to any place in the Maritime Provinces providing you had the authority to do so?

Mr. McCULLY: We have the equipment. Of course, you cannot land in all communities because there are not landing fields. But the major points, such as Halifax, Saint John, Moncton, Charlottetown, and so on, have air ports, and we can fly passengers there if they want to pay the price.

Hon. Mr. COPP: Getting back to my question about a passenger who wants to get from Saint John to Charlottetown in a hurry, may I ask what time would you leave Saint John?

Mr. McCULLY: at 9.50.

Hon. Mr. COPP: And you would get to Moncton when?

Mr. McCULLY: at 10.40:

Hon. Mr. COPP: And the passenger would have to wait there until 4 o'clock in the afternoon, unless he practically bought your machine?

Mr. McCULLY: Yes.

Hon. Mr. COPP: For some reason or other you are prevented from going from Moncton to Charlottetown?

Mr. McCULLY: We have not been allowed to go yet.

Hon. Mr. DANDURAND: I desire to point out to the Committee that there are two or three witnesses who are not yet here and that the Committee may be sitting one day next week. Departmental officials will be studying the representations that have been made to us, and I think the Minister of Transport and his assistants will probably be ready to give us their views with respect to those representations the week after next.

Hon. Mr. ROBINSON: I should like to be permitted to say something, Mr. Chairman, that may not be altogether germane to the Bill. There has been published an article stating that I was a director of Mr. McCully's company, and that Senator MacArthur was too. As a matter of fact I had resigned some time ago, and I have no personal interest in the concern. But I am interested in what Mr. McCully and his company are doing. He has five planes down there, and for some reason—through remote control—he is not permitted to fly to Summerside. Now, remote control is the essence of this Bill, is it not?

The CHAIRMAN: The Bill seeks to introduce control in many cases.

Hon. Mr. ROBINSON: You are not allowed to fly from Moncton to Summerside, and that would be the most remunerative part of the whole business, would it not?

Mr. McCULLY: That is the personal opinion we have. We have no proof of it.

Hon. Mr. ROBINSON: What I cannot understand is why the decision of the Air Board was first announced in the *Financial Post*. I think it was published there before anybody else got it.

[Mr. McCully.]

Hon. Mr. GRIESBACH: I believe you are the first witness who has given evidence from the exclusively interurban standpoint?

Mr. McCULLY: I believe so, sir. I have not been here all the time.

Hon. Mr. GRIESBACH: And as I understand it you say that your information about your own business is as yet so nebulous that you cannot say just exactly what charges should be made.

Mr. McCULLY: That is my personal opinion, sir. I do not feel that we are competent as yet to say whether we should be regulated or have tariffs, and so on. Even with the little bit of running that we have done we have had to make changes in our rates.

Hon. Mr. GRIESBACH: When the Minister was before us—and I had a personal talk with him as well—he said there will be no serious intention of interfering with northern flying, that that is going to be left to develop itself, but that interurban flying is going to increase and that it is desirable the Federal Government should come into the picture and control that form of flying from its inception, so that the business will be regulated as it grows. Now, having regard to this Bill, do you or do you not object to it as it applies to interurban flying?

Mr. McCULLY: I can hardly answer that, sir. As I say, we do not know enough about it. We are controlled very well by civil aviation now, and I think this Bill would result in somewhat of a duplication with regard to rates, tariffs, and charges that we may make. The industry being as young as it is, whether or not there should be such a Bill is I suppose pretty hard for me to say.

Hon. Mr. GRIESBACH: Are you for the Bill or against it?

Mr. McCULLY: Generally, I should say we are against it. Perhaps that is due to ignorance, for we do not know how far it is going to go, nor who is going to control us if the Bill goes through. We are rather inclined to want airmen to control us.

Hon. Mr. GRIESBACH: Have you any objection to the clauses of the Bill that bring you practically under the Railway Act?

Mr. McCULLY: Well, in personal contact with railroad men I may say I have not found them very lenient in their views to aviation or competition in any way. If they control this I would hate to say what the results might be. I do not know that they are going to control us. But it does not seem consistent to have the Railway Act applying to airways. Why could there not be an Airways Act, that would put us under the control of air men?

Mr. CHAIRMAN: This is really a Transport Bill.

Mr. McCULLY: I see the words "Railway Act" in very many places.

Hon. Mr. GRIESBACH: You do not think there is enough information available yet around which to build up regulations and control? Is that your view?

Mr. McCULLY: Well, we have not as yet got enough down there, sir. And I think we are the first interurban service in Canada that has tried to take in more than an A and B service. Other interurban services in Canada, so far as I know, are simply going back and forth between points, but we are trying to tie up eight or nine places and make air connections at divisional points.

Hon. Mr. ROBINSON: How many planes have you?

Mr. McCULLY: Five.

Hon. Mr. ROBINSON: How many planes have you?

Mr. McCULLY: Five.

Mr. ROBERT D. SMITH: Mr. Chairman, may I ask a question here? Mention was made of the likelihood of a meeting being held by the Committee, the week after next, to hear the Minister and Departmental officials. I should like to know if representatives of public bodies will be allowed to attend that sitting.

The CHAIRMAN: Yes. The door will be wide open, and anybody will be admitted until the room is full.

Mr. SMITH: I simply would like to be here when replies are being made to some of the objections that have been presented to the Bill.

Hon. Mr. MACARTHUR: Mr. Chairman, at this stage I should like to make a brief statement. We have a very peculiar condition in the Maritimes. I for one would not ask for anything in the way of concessions in the summer time, but in winter we certainly are at a disadvantage as compared with other parts of Canada. Sometimes Canadian Airways have so much freight or mail that they cannot take passengers, and that is often a real hardship to people who are desirous of making a speedy trip from Prince Edward Island to the mainland, on account of illness or death of a relative, or for other urgent reasons. It would be a great benefit to have a few extra machines available. I was speaking the day before yesterday to Mr. Thompson, Manager of Canadian Airways, who has now returned to Winnipeg, and I asked him point blank if he had any objection to competition, and he said "Absolutely none." He said that in fact they sometimes were glad to be helped out by machines and pilots of the other company. I do feel that Mr. McCully has been a little premature in his enthusiasm. He got into this mess, as I might call it, and Senator Robinson and I were put on the directorate without our knowledge. I think Mr. McCully went too far. We do not like to be in the position as outlined in the Financial Post, where there was a little reflection on our perspicacity. But if Mr. McCully will fulfil all requirements of the Government and see that his equipment complies with the standards for safety, we should like some assurance from Lieutenant-Commander Edwards and Mr. Wilson. Some days ago we were told that there would be an answer yesterday, but it did not come. We would like to know where Mr. McCully's company stands. He has five machines down there, with pilots, and considerable money has been invested, mostly by women of the province, who were led to believe their investment would be a good one. The situation is really a serious one. I would ask these gentlemen to take that into consideration and try to get together with Mr. McCully and work out some solution which will give a service to Prince Edward Island, particularly in the winter months. The service could augment that given by Canadian Airways, which company has no objection to the operations of Mr. McCully's company.

Lieutenant-Commander C. P. EDWARDS: Mr. Chairman, might I say, sir, that the question which arises is one of public convenience and necessity. In December last the Minister notified Eastern Air Lines that he was prepared to authorize the following services, when that company complies with all technical requirements as to safety:

Moncton-Fredericton-Saint John;
Moncton-Halifax;
Moncton-New Glasgow-Sydney;
Halifax-New Glasgow-Charlottetown.

There is involved the safety of human life in the air. It is our responsibility to see that the machines and the service conform to certain requirements. There is one other service running between Saint John and Halifax, and there is one service now running from Moncton to Summerside and Charlottetown. The Minister may see fit, in view of representations that have been made, to take some action, when Mr. McCully's company is prepared to give a proper service, but that is of course something for the Minister himself to say, not for the officers of the Department. The company wishes to duplicate the service of Canadian Airways from Moncton to Charlottetown, but so far they have not had the authority.

[Mr. McCully.]

Hon. Mr. COPP: It is of no advantage for a man to go by air from Saint John to Moncton, because he has to wait there so long that he would be just as far ahead if he went there by train.

Hon. Mr. ROBINSON: Is Canadian Airways subsidized?

Commander EDWARDS: I understand the company has a mail contract.

Hon. Mr. ROBINSON: Eastern Canada Airways is not subsidized.

The CHAIRMAN: All right, Mr. Best.

Mr. W. L. BEST (Secretary, Dominion Joint Legislative Committee of the Railway Transportation Brotherhoods): Mr. Chairman, I desire to read to you this short memorandum:—

Concerning Senate Bill "B," entitled "An Act to establish a Board of Transport Commissioners for Canada, with authority in respect of Transport by railways, ships, aircraft and motor vehicles," the Dominion Joint Legislative Committee of the Railway Transportation Brotherhoods desire to record hearty approval of what we understand to be the chief principle of the Bill, namely, to place the several forms of transport referred to therein under the authority of a Transport Commission.

In supporting the principle of the Bill, we are but continuing our efforts of many years to co-operate with the Federal and provincial Governments in reaching a solution of our transportation problem. Moreover, we are convinced that there is a growing public sentiment in favour of effective control and more equitable regulations of all means of transport, if a solution is to be reached and a sound policy adopted. In other words, if the various forms of transport are to be co-related and co-ordinated as far as may be practicable, with a view to furnishing the public with the maximum service, then some central Government authority and control seems desirable and necessary.

Concerning the steam railways and their operating employees, similar legislative control has been in effect for more than three decades and therefore has passed the experimental stage. It is fair to assume that no one would seriously suggest that the exercise of that control should be discontinued. In constituting it, Parliament deemed it desirable and necessary in the public interest that broad powers should be given the Board to make orders and regulations governing the operation and development of that enterprise. Generally speaking, these orders have been mandatory, subject, of course, to re-hearing and review of any such order or regulation and subject further to an appeal as to jurisdiction. These powers of the Board extend to almost every phase of operation, and provide generally for the protection of property and the protection, safety, accommodation and convenience of the public and of the employees of the railway in its maintenance and operation.

If such authority is desirable in respect of the maintenance and operation of steam railways, which are recognized everywhere as the only dependable means of transport throughout every day in the year, it would seem to logically follow that any other means of public transport should be subject to similar regulations by Government authority in order to ensure fair practices as between the various agencies competing for public transport service.

It is recognized that practically all forms of transportation are now subsidized from public funds. In the Report of the Royal Commission on Railways and Transportation in dealing with "Canal Tolls" it was declared that "aids to navigation and the construction of canals and their maintenance have been exclusively a charge upon the public treasury." The same can be said with respect to the construction, maintenance and operation of Canadian highways. Because these heavy subsidies, if for no other reason, we submit these agencies should be subject to effective control and regulation by Government authority.

Our position must not be interpreted as antagonistic to highway or other means of transport on the contrary, we are persuaded that at many points improved means and facilities for transport are being furnished, at least a portion of the year, particularly in territory where no steam railways exist and where the building of new lines is a very remote possibility. However, in territory where the railways are able and willing to provide ample facilities throughout every day of the year to meet all transport requirements, it does seem quite unfair that commercial highway vehicles and water transportation, both of which are largely subsidized from public moneys, should monopolize the more profitable short-haul traffic when favourable climatic and other conditions prevail, but are unable to provide accommodation when those conditions are less favourable. In other words, a reliable transport service for all commodities is a national necessity and, therefore, should be protected from unfair and only partially regulated competition. Bill B, as we understand its purpose, seeks to protect and equitably regulate all transport agencies in a similar manner to that which has been imposed upon the railways. As representative citizens and tax payers, the proposal seems to us to be a very worthy and logical one and in the very best public interest.

Having expressed approval of the principle of the Bill, we respectfully suggest certain changes which seem to us necessary if the measure is to fulfill its purpose. Whilst we quite appreciate the desirability of a gradual application of the several parts of the Bill, by proclamation of the Governor in Council, we believe that divided control now provided for in the Bill is undesirable. Therefore, we believe that the Board should have full responsibility for the issuing of licences and the making of any orders and regulations which, in its judgment, are found desirable and necessary, without being subject to direction or instructions from the Minister or the Governor in Council. This will require amendments to certain sections by substituting the word "Board" for "Minister" or "Governor in Council."

The foregoing suggested changes, if adopted, should make more clear that the Act contemplates control by the Board of the several transport agencies brought within the scope of the Act with a minimum of political or partisan interference. We sincerely hope that the measure will become law during the present session of Parliament, that the several parts of the Bill will be proclaimed as early as may be practicable, having regard to the necessity of additional administrative machinery being constituted and set in motion, and that when so proclaimed the Transport Commission shall have full authority to grant, withhold or cancel licences and to make any orders or regulations which, in its judgment, are deemed desirable and necessary in the public interest.

That is signed by myself as secretary and by Mr. Kelly as chairman of our Committee.

Hon. Mr. BALLANTYNE: Whom does your Committee represent?

Mr. BEST: The locomotive engineers, locomotive firemen and enginemen, the Order of Railway Conductors, the Brotherhood of Railroad Trainmen, the Brotherhood of Railway Maintenance Men and the Order of Railway Conductors.

Hon. Mr. BALLANTYNE: Your organization covers the C. P. R. and the C. N. R. men?

Mr. BEST: All of Canada.

Hon. Mr. MACARTHUR: There is nothing in the Bill detrimental to any of those organizations.

Mr. BEST: No. We suggest entire control should be placed in the hands of one board.

[Mr. Best.]

We have been intensely interested in this matter, not from a personal point of view, but as representative citizens and taxpayers we feel some responsibility rests on us to bring about a solution of the problem. The Federal Parliament has voted huge sums of money for the development of our highway system, in addition to the money expended by the provincial authorities. This has brought about new forms of land transportation, and this in conjunction with the development of our canals has contributed to bring about our railway problem, which, I think, you will all agree is of major importance. Because of our severe climatic conditions, railway transportation is still recognized as the only dependable means of handling both passengers and freight the year round. It must be borne in mind that if the highways are kept open during the winter it is at the cost of the taxpayers. Not so with the railways, they must maintain their right-of-way and keep it open every day in the year.

Yesterday the chairman intimated that he was full of the Constitution. Well, the constitutional question is inseparably linked up with our transportation problem, and it has embarrassed every representative citizen who feels that there should be more central control from Ottawa, not because long distance supervision is desirable, but because it is necessary for the general welfare of the people of Canada.

Here is a measure which has been advocated for years—we make no apology for advocating it—for the purpose of constituting some central authority to control all forms of transport. If, however, the representatives of the provinces will not co-operate with the federal authorities to create the machinery which this Bill proposes, then it seems to me our railway chaos will continue indefinitely.

You, Mr. Chairman, and many other honourable gentlemen present know the railway conditions that obtain at the present time. It is one of the serious problems of the country that whereas in 1929 there were 189,000 railway employees at work, to-day there are only 113,000. Those 76,000 railway men have lost their purchasing power, largely owing to the fact that we are continuing to subsidize a seasonal means of transport at the expense of the public. For instance, we expended over \$13,000,000 on our canals in 1934, from which we received in revenue scarcely \$1,000,000. We have put over \$89,800,000 into our highways, on which there was a return of about \$50,000,000. In other words, we subsidized our highways to the tune of over \$39,000,000. That is not as favourable a picture as was painted yesterday, but those figures are from the Bureau of Statistics. We cannot continue that policy, for it is economically unsound, and endangers the financial standing of the Dominion.

As you know, Mr. Chairman, in 1933 we submitted to the Federal-Provincial Conference ten recommendations, and I am glad to say that those recommendations were adopted by the Dominion-Provincial Conference of 1935. At that time we endeavoured to suggest certain things that, after very careful study, we believed would be at least a step in the direction of co-ordinating all of the various services and licensing only those which were in the public interests or could be shown to be a public necessity and convenience. If that is carried out we will have no complaint. But in every one of the nine Provinces of Canada there is, as you honourable gentlemen know, divided control. I have been in them all in the last sixty days. One body, the Public Utilities Commission, will grant the licence, and the Highways Department will make rules and regulations. There is no uniformity, for example, with regard to the definition of carrier. The Province of Alberta in its new regulations effective on the 1st of April this year, a copy of which I have with me, goes further than any of the other provinces, possibly, except Manitoba, in defining a carrier to mean every carrier, whether passenger or freight, for hire. As we heard yesterday, our largest industrial province, which has 40 per cent of the highway traffic, has not taken any such stand. It does tax motor carriers but does not bring them under the general carrier definition. In Ontario and one of the

Maritime Provinces, particularly, the door is practically wide open. The policy seems to be based on the attitude that the more franchises sold the more money received and the more gasoline taxes collected. That seem to be the policy, rather than one of seeking to co-operate with those who are endeavouring to build up some central governmental authority under which all services could be co-ordinated with a view to the common good.

Now, gentlemen, we have some communications to be read.

The Clerk of the Committee then read the following communications:—

THE CHARLOTTETOWN BOARD OF TRADE

CHARLOTTETOWN

PRINCE EDWARD ISLAND

February 16, 1937.

The CHAIRMAN,
The Senate Committee,
Bill B.
The Senate, Ottawa.

DEAR SIR,—I beg to enclose herewith copy of Resolution relative to the matter, which you are now considering, which resolution was unanimously adopted by this Board of Trade, on February 12th.

Respectfully yours,

(Signed) WALLACE L. HIGGINS,

Secretary.

Whereas by reason of its geographical location Prince Edward Island must dispose of the great bulk of its productions in distant consuming centres and must move practically all manufactured products needed by its people long distances in reverse direction.

And whereas efficient low cost transportation is thereby rendered vital to its prosperity and existence (this need was specially recognized at the time the province entered Confederation and is now even more apparent).

And whereas the benefit of regulation of railway services by the Board of Railway Commissioners has not, over a long period of operation, been emphatically apparent, within this province, as elsewhere in Canada, while the expense of same has materially increased the cost of government.

And whereas railway transportation, under Commission regulation, has failed to realize the dreams and promises of its promoters and has made rather inadequate returns for the very great expenditures of public funds and appropriations utilized in providing rights of way and expensive road-beds.

And whereas railway management under Commission regulation has failed to keep abreast of transportation possibilities opened up by modern scientific research, inventive genius and business progress.

And whereas railway labour under Commission regulation of railways, has been remunerated on a scale materially higher than that enjoyed in the unrestricted forms of transportation and has surrounded itself with working conditions inconducive to successful competition (thereby tending to curtail profitable use of railway facilities largely provided at public expense as well as to curtail assimilation of unemployed in railway transportation).

Therefore resolved that the Charlottetown Board of Trade opposes adoption of the proposal that other forms of competitive transportation, together with the railways, be made subject to the rules, regulations and restrictions of a costly general commission of transport.

And this Board would more particularly impress upon the representatives of this province in Parliament the necessity of maintaining unrestricted competition upon the carriage of all goods by water to and from all points within this province from and to all points in Canada (inland as well as coastal) accessible thereby.

Further resolved that the Government and Legislature of this province be urged that they take no action of any kind (other than for the preservation of safety) that might tend in any way to the restraint or restriction of competition as between various forms of transportation now existent or that scientific advance may hereafter produce, both within and to and from this province.

And that copies of this resolution be sent to the Chairman of the Committee of the Senate now considering an Act to establish a Board of Transport Commissioner for Canada, to the Premier of this province, to all representatives of Prince Edward Island in Parliament, to the Maritime Board of Trade and the Canadian Chamber of Commerce.

Passed by

The Charlottetown Board of Trade
February 12th, 1937.

SHIPPING FEDERATION OF CANADA, INC.

MONTREAL

February 18, 1937

The Rt. Hon. GEO. P. GRAHAM, P.C.,
Chairman,

Standing Committee on Railways, Telegraphs and Harbours,
The Senate,
Ottawa, Ont.

SIR,—

Re Senate Bill "B"

The Shipping Federation of Canada, an organization comprising operators of vessels trading to our national harbours, respectfully submits the following recommendations in respect of Part V (Harbour Tolls) of Senate Bill "B," now before your Committee.

In the Bill, as drafted, it is provided that the Board of Transport Commissioners shall, on request by the Minister, make enquiry as to whether a harbour toll is just and reasonable, and after making such enquiry, shall make a report and recommendation to the Minister for such action as he deems fit. In the proceedings of your Committee (No. 1) the Hon. the Minister, in explaining the purpose of Part V, made it clear that as the National Harbours Board is the operator of the national ports and also the rate-fixing body, the object of Part V is to enable the users of the port, i.e. those who pay the tolls, to have any toll, to which they have reasonable objection, reviewed by the Board of Transport Commissioners. The Federation urges, therefore, that Part V be so amended as to provide clearly that any interested party, i.e. trader or carrier organization, may apply to the Board of Transport Commissioners for a review of a harbour toll fixed by the National Harbours Board. Further, it is submitted that the Board of Transport Commissioners having heard evidence from all interested parties, and made a recommendation thereon to the Government, should publish its findings for the information of those concerned. In our view such amendment of the Part will more fully serve the object intended, and will provide the users of the national harbours with the means of prompt appeal to

this reviewing Board in respect of any harbour toll which is considered inequitable. A recommendation similar to the foregoing was submitted by the delegation of the Montreal Board of Trade which appeared before your Committee on 16th instant. We support that recommendation and submit that Part V be amended on the following lines:—

PART V

HARBOUR TOLLS

19. The Board shall when requested by the Minister or by any representative body of traders or carriers make enquiry in respect of any harbour toll as to whether such harbour toll is just and reasonable under all the circumstances, and without restricting the generality of the foregoing the Board shall in the conduct of such enquiry have regard to:—

- (a) the service, privilege, advantage or benefit enjoyed or provided in respect of which the harbour toll is charged;
- (b) the cost of providing, operating and maintaining the facilities and services of the harbour including, without restricting the generality of the foregoing, interest on capital investment and depreciation;
- (c) comparable tolls and charges payable at any harbour in Canada or elsewhere than in Canada;
- (d) whether such harbour toll is under substantially similar circumstances and conditions charged equally to all persons;
- (e) the effect of such harbour toll upon the movement of ships, goods or passengers, as the case may be, through the harbour and upon the movement of trade generally.

(2) The Board shall with its report transmit to the Governor-in-Council a copy of the evidence taken by the Board in the course of its enquiry

20. If the Board after enquiry as hereinbefore provided is of opinion that any harbour toll should be amended or rescinded or any other harbour toll substituted therefor, it shall be the duty of the Board to forward with its report a recommendation to the Governor-in-Council for such action as he deems fit, and such report and recommendation shall be published in the "Canada Gazette."

21. This Part shall not come in force until proclaimed as in force by the Governor-in-Council.

If you deem it advisable, a representative of this Federation will be ready to appear before the Committee in support of the above recommendation.

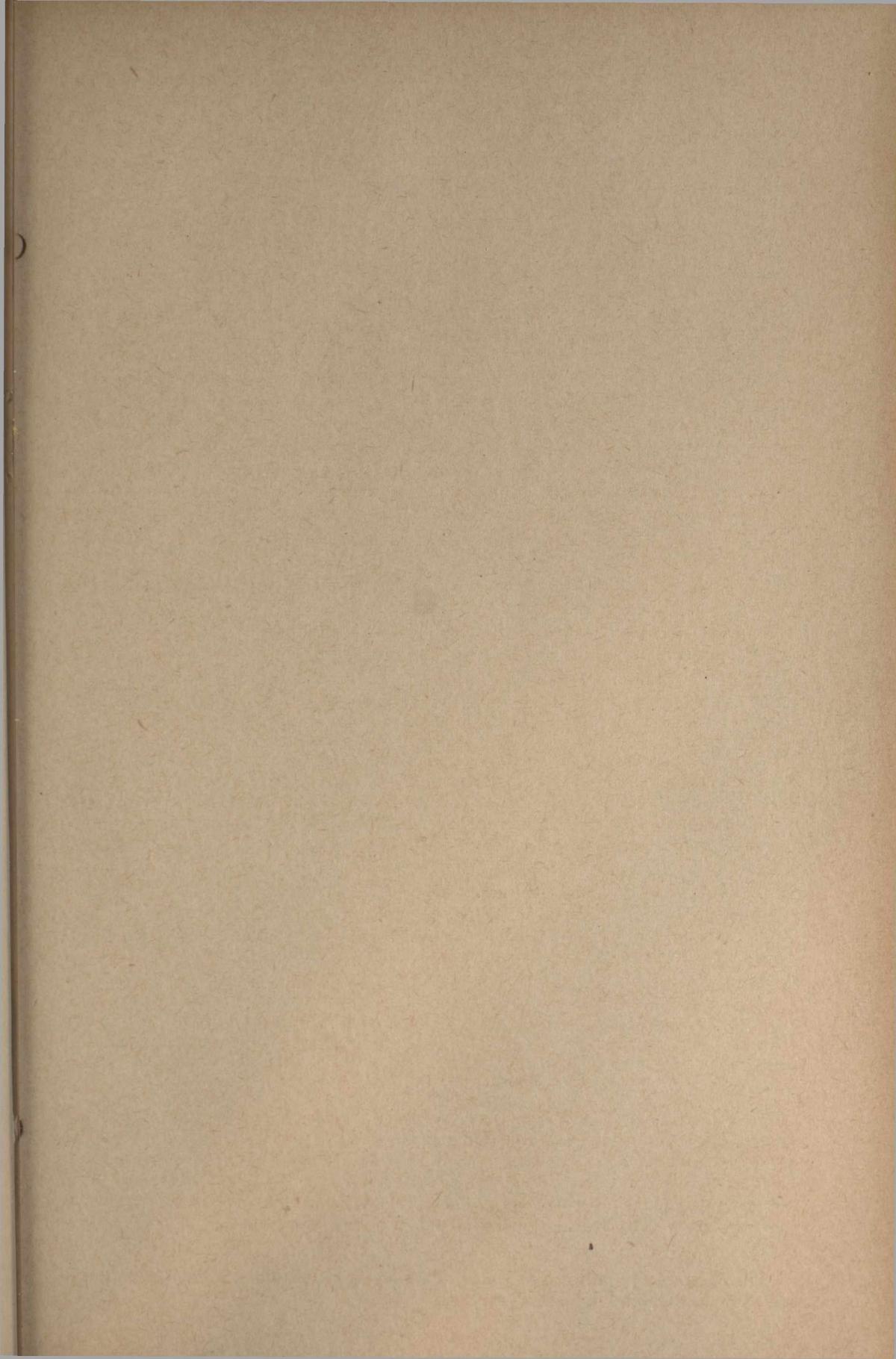
Respectfully submitted,

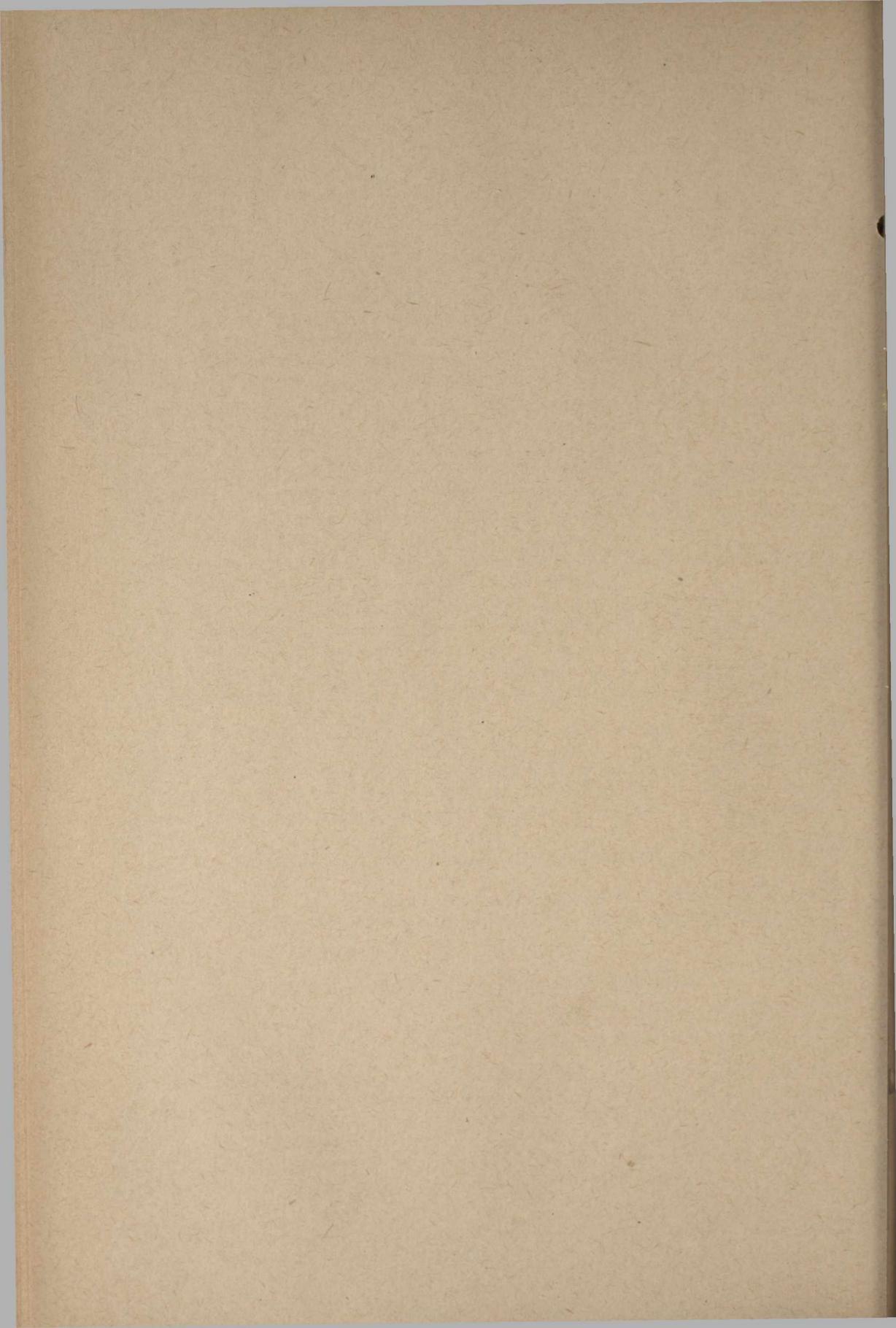
On behalf of the Shipping Federation of Canada,

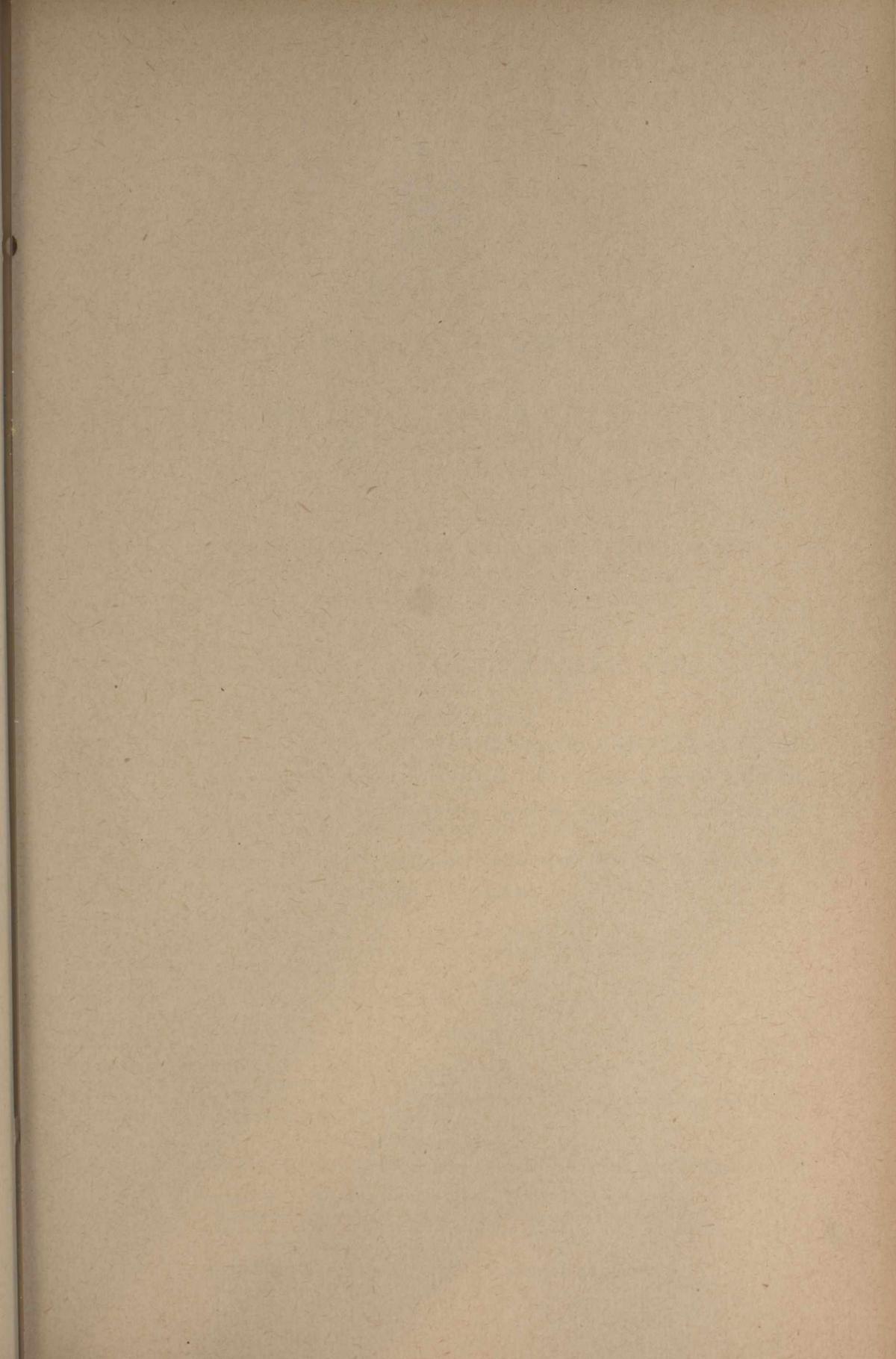
(Sgd.) A. L. W. MACCALLUM,
Manager and Secretary.

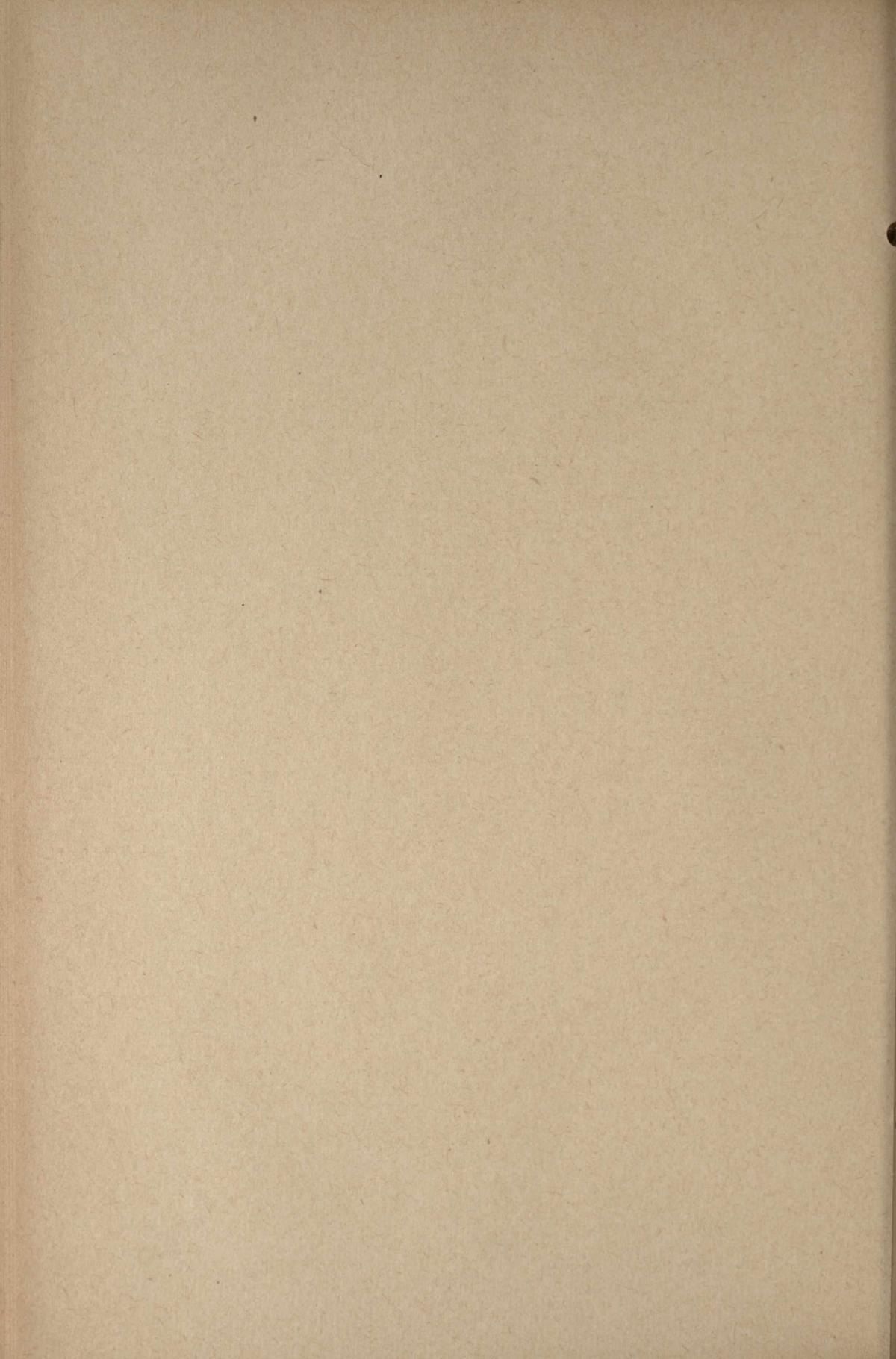
The CHAIRMAN: Gentlemen, with your permission I would suggest that we adjourn this Committee till Thursday next at 10.30 a.m., unless some change has to be made in the meantime. We would say Wednesday, but the Banking and Commerce Committee will require this room for that day at least. We shall have some people to be heard on Thursday, and the following week we shall hear from the Minister and his Departmental officials.

The Committee adjourned until Thursday, February 25, at 10.30 a.m., subject to earlier call by the Chairman.









THE SENATE OF CANADA



PROCEEDINGS

OF THE

STANDING COMMITTEE

ON

RAILWAYS, TELEGRAPHS AND HARBOURS

ON

BILL B

An Act to establish a Board of Transport Commissioners for Canada, with authority in respect of transport by railways, ships, aircraft and motor vehicles

No. 7

The Right Honourable GEORGE P. GRAHAM, P.C.,
Chairman

WITNESSES:

- Mr. W. R. Caldwell, Hamilton, Ont., representing Canadian Cannery, Ltd., and the National Cannery Association of Canada.
- Mr. F. J. Davis, Toronto, Ont., representing Great Lakes Division of the Canadian Navigators Federation, Incorporated.
- Mr. J. M. Kennedy, Toronto, Ont., President, Central Division of the National Association of Marine Engineers of Canada, Incorporated.
- Mr. T. L. Church, M.P.
- Mr. Frank McDonnell, Chairman, Steamship Inspection Branch, Department of Transport.

COMMUNICATIONS:

- Telegram from Mr. James Playfair.
- Telegram from the Viridin Community Board of Trade.
- Telegram from Mr. H. K. Starnes, President, Montreal Corn Exchange.
- Letter from Sarnia Steamships, Limited.
- Letter from Ontario Motor Truck Owners Association.
- Letter from Canadian Brotherhood of Railway Employees.
- Letter from the Toronto Board of Trade.
- Letter from the Montreal Travel Agents' Association.
- Letter from the Alberta Wheat Pool.
- Letter from the Ontario Flour Millers Association.
- Letter from McColl-Frontenac Oil Company, Limited.
- Letter and Memorandum from Dr. O. D. Skelton, Under-Secretary of State for External Affairs, (re foreign shipping treaties).

CORRECTIONS:

- From Mr. M. J. Patton, Executive Secretary, Canadian Automotive Transportation Association.
- From Mr. I. S. Fairty, K.C., Vice President, Gray Coach Lines, Limited.
- From Mr. G. A. Thompson, General Manager, Canadian Airways, Limited.

OTTAWA

J. O. PATENAUDE, I.S.O.

PRINTER TO THE KING'S MOST EXCELLENT MAJESTY

1937

THE STANDING COMMITTEE ON RAILWAYS, TELEGRAPHS AND
HARBOURS

The Rt. Hon. GEO. P. GRAHAM, P.C., Chairman

The Honourable Senators

Arthurs	L'Espérance
Ballantyne	Logan
Barnard	MacArthur
Beaubien	Marcotte
Black	McDonald (<i>Shediac</i>)
Bourque	McGuire
Buchanan	McLennan
Calder	McRae
Casgrain	Meighen
Copp	Michener
Dandurand	Molloy
Dennis	Moraud
Farris	Murdock
Gillis	O'Connor
Gordon	Parent
Graham	Pope
Green	Rainville
Griesbach	Raymond
Haig	Robinson
Hardy	Sharpe
Harmer	Spence
Horner	Sutherland
Jones	Tobin
Lacasse	Turgeon
Laird	Webster—50

(Quorum 9)

MINUTES OF EVIDENCE

THE SENATE,
THURSDAY, February 25, 1937.

The Standing Committee on Railways, Telegraphs and Harbours, to whom was referred Bill B, intituled: "An Act to establish a Board of Transport Commissioners for Canada, with authority in respect of transport by railways, ships, aircraft and motor vehicles," met this day at 10.30 a.m.

Right Hon. George P. Graham, Chairman.

The CHAIRMAN: Now, who is to appear before us this morning?

The CLERK OF THE COMMITTEE: The first name is that of Mr. W. R. Caldwell, representing the canners.

The CHAIRMAN: Very well, Mr. Caldwell.

Mr. W. R. CALDWELL, Hamilton, Ontario, representing Canadian Canners, Limited, and National Canners Association of Canada: Mr. Chairman and gentlemen, I am speaking on behalf of the National Canners Association of Canada, an organization having members who operate canning factories in the provinces of British Columbia, Ontario, Quebec and Nova Scotia.

We wish to submit the following for your consideration with regard to some of the proposals contained in the Bill now before your Committee.

Part II—Sections 4 and 5: These proposed sections deal with the regulation of water carriers and we understand, according to printed proceedings of this Committee and statements made by the Honourable Mr. Howe, that it is not the intention to apply the regulations to intercoastal, coastwise shipping on the two oceans, nor to apply at the beginning, traffic between ocean and lake ports; nor is it the Government's intention to apply it on smaller sized craft, and it is only intended to apply it to the ordinary canal size boats from Montreal to the Lake Head, which we also assume, would cover the intermediate territory.

We feel that, inasmuch as the Canadian Government have spent enormous sums of money in connection with the development of water transportation, which ultimately is intended as a facility for the purpose of marketing products of the farms and manufactured goods, and with a view of assisting the trade of the country,—that no obstacles should be placed in the way of legislation which is going to retard, in any way, this cheaper method of transportation.

The organization for which I speak, is engaged principally in the canning of fruits, vegetables and allied lines produced in large volume in the Southern part of Ontario and Quebec, also British Columbia. This cheaper method of transportation, of which we have had the benefit for years, enables the canners in Ontario and Quebec to ship to the Lake Head for furtherance to western points, the products of these Provinces at considerably lower rates than applicable by rail transportation. The competition that exists on these various lines of goods naturally makes it that the consuming public obtain the benefit of this lower laid-down cost. It may be interesting to you to know that we do not know of any place in the world where canned goods are shipped from Southern Ontario or Quebec points, where the freight rate is as high on canned goods as to the Prairie Provinces, and we feel any regulation such as proposed, will undoubtedly return to the period prior to 1925, when boat rates to the Lake Head on canned goods were made in relation to the rail rates by the boat lines, establishing small differentials below the rail rates, and such proposed legislation will ultimately mean only higher transportation or additional tax on the consuming public.

It is also difficult to understand how a commodity such as sugar, of which the canners use a large quantity, is not going to be regulated insofar as the movement from the ocean ports from the refineries on the Atlantic seaboard, while regulated insofar as the movement, for instance,—from Montreal or Wallaceburg, to Ontario points,—is going to work out.

At the present time ships engaged in the trade, for instance from Montreal to the lakes, carry a considerable quantity of canned goods, both from Quebec to Ontario points, and also in a reverse direction. The ships engaged in this trade at the present time are the larger size canal ships, such as it is proposed to regulate in this particular instance, while the smaller ships are going to be free from such regulations. Prior to 1929 there was a considerable trade by small ships of 500 tons and less, from Ontario points to Quebec ports, and undoubtedly, such legislation will again draw the small boats into this trade between Lake Erie and Lake Ontario points to River St. Lawrence points, as the smaller boats will be unregulated, while those of larger size will be regulated.

Another very important feature in connection with this proposed legislation,—if the rates from the lakes to Montreal are going to be regulated this will very seriously affect the export of the commodities in which we are interested, and which at the present time, amount to considerable tonnage.

The CHAIRMAN: Is it not the practice to have the somewhat special rate for export?

Mr. CALDWELL: I was just coming to that, sir.

The CHAIRMAN: Excuse me.

Mr. CALDWELL: At the present time the exporters of canned goods to the United Kingdom are bound by contracts during this coming season of navigation to give all business over which they have control, to the North Atlantic Conference in conjunction with the regular Lake Lines, also on which the rail lines participate to some extent via Montreal and Quebec City, thence the Conference Lines to the United Kingdom.

The CHAIRMAN: What are the Conference Lines?

Mr. CALDWELL: The North Atlantic Conference is a number of steamship lines that operate from Canadian and American ports to the United Kingdom. I am speaking of the North Atlantic Conference steamships.

The CHAIRMAN: They regulate among themselves the passenger rate too, do they not?

Mr. CALDWELL: I believe they do, sir, but I am not familiar with the passenger business. I am more interested in the freight business.

The CHAIRMAN: All right.

Mr. CALDWELL: Considerable quantities of these goods, moving under these contracts, are being sold daily, and a considerable quantity awaits the opening of navigation, and it is rather difficult for us to determine just what will happen these agreements, providing such legislation is enacted.

We also wish to state here, that while the Trade Agreements made by the Government have been of considerable aid in marketing goods in other countries, water transportation from Southern Ontario has played a large part in assisting in the marketing of products of the canning industry in this province, in these other countries, where ocean transportation is necessary. During years past, along the Atlantic and Pacific Coast in the United States was a very important factor in the exporting of canned goods, but water transportation has, within the last five years, placed Ontario and Quebec plants practically on a parity with the canners in the United States, adjacent to the Atlantic Seaboard, on this export trade, insofar as transportation rates are concerned.

We, therefore, feel that it is our duty to submit our objections to any regulations tending to handicap this trade, as proposed, for we submit that it is not right or proper that shippers in a certain district on a certain trade, be regulated insofar as their shipping is concerned, while similar trade by other water carriers within the country are not regulated, and possibly both in competition with each other. For instance, the following trades on which there is a continuous movement of canned goods, will not be regulated—

To and from British Columbia and Maritime, St. Lawrence and Great Lakes ports, Maritime ports and St. Lawrence and Great Lakes; Coastwise along Atlantic and Pacific, small ships carrying goods between Gulf of St. Lawrence, St. Lawrence River and some of the Great Lakes, between Lake ports and American Atlantic ports, while regulations will be in effect only by large size canal ships between territory or ports Montreal to Lake Head.

Part IV—Transport by Highway: We wish to submit our objections to Sections 13, 14 and 16 of the part dealing with transport by highway.

We submit that, considering the progress made by the Provincial Government in dealing with regulations, which are being changed by degrees, it might be well to consider leaving this matter under their control, as they have made, jointly with associations, a study of such required regulations over a period of years, but if there is any likelihood of Part IV covering transport by highway being passed in whole, or in part, that the shippers or traders handling their own goods on their own trucks, should be exempt from the licence requirements, or the filing of tariffs, etc., as required under this proposed regulation.

We also submit likewise, the Public Commercial Vehicle, licensed by Provincial Government, where it is in operation at the present time, be issued the necessary Dominion licence between the points now operated under the Provincial licence, or where they are operating to or from the United States territory, in foreign trade, they should be granted a licence without substantiating further the need before the Dominion Board, for we think it is only reasonable to assume that they would not be maintaining and operating a service unless there was public demand. This practice, both for privately owned and public Commercial Vehicles was followed when the United States adopted the Motor Carriers Act, regulating inter-state and foreign commerce.

Part VI—Agreed Charges: This particular section of the proposed legislation has been very seriously considered and we are of the opinion that it would not be in the best interests of the industry, and the country as a whole, for the members of this association feel that they should be free to market their goods through whatever transportation medium they consider best, and such an agreed arrangement may be rather difficult to administer, for while the shipper may control the goods which he sells on a delivered basis, he cannot sign and agree to confine to any class of carrier, goods which are sold f.o.b. factory, and over which he has no control, in so far as the routing is concerned, and as goods of different varieties are sold on a different basis, this would make it rather difficult in doing business. We have an example of this in the matter of the North Atlantic Conference Agreement, to which we have previously referred, which practically all the large exporters of canned goods have signed for the year 1937, and been a party to such agreement for the last two or three years, whereby the shipper must confine the goods to the Conference Lines, over which he has control. Some of the shippers have a distinct understanding with the Conference in signing such an agreement, that it is understood that such an agreement does not, in any way, control goods which may be sold f.o.b. dock or point of shipment. This agreed section, we believe, is without question, a page copied out of the book dealing with ocean Conference contracts, and which it will ultimately lead to, whereby a shipper has to confine all of his business to one carrier, to the exclusion of other classes. With the present operation of canning

being carried on on various lines of railways in this country, such as the Canadian National, Canadian Pacific, Michigan Central, Pere Marquette, Toronto Hamilton & Buffalo Railway, etc., it is rather difficult to foresee,—with an industry located on some of these smaller lines, which at the present time, work on a through joint rate basis with the larger lines, to the principal markets,—how such an agreement would work.

This section, as evidence previously submitted to you shows, has been copied from the regulations dealing with traffic in the United Kingdom, and considering the objections arising where it is now in operation, it should not be adopted until given a fair trial in the countries where it has been at the present time adopted, as we feel that it would lead to untold discrimination, and restraint on business against that class of carrier not party to the agreement.

All of which is respectfully submitted.

Hon. Mr. ROBINSON: As I understand it, all the privileges of Part VI are enjoyed by everybody except the railroads now, is that right?

Mr. CALDWELL: I do not know of any contract, for instance, made by any other class of carrier than a railway and excluding the railways.

Hon. Mr. ROBINSON: But all other classes have that privilege, have they not?

Mr. CALDWELL: I do not know of any existing.

Hon. Mr. ROBINSON: What do you mean by that?

Mr. CALDWELL: I do not know of any contracts existing to exclude the railroads.

Hon. Mr. ROBINSON: But I say the others have the privilege of doing that, have they not? They have the right to do it if they want to, have they not?

Mr. CALDWELL: It is a question whether they have the right, under the law. As I understand it, you cannot go out and tie up a man in so far as the sale of goods is concerned, and I do not see why there should be any difference in so far as transportation is concerned.

Hon. Mr. ROBINSON: But you can make an agreement with a man, can you not?

Mr. CALDWELL: Perhaps you can. But I am not a lawyer, unfortunately.

The CHAIRMAN: I would not lament that.

Hon. Mr. DANDURAND: You stated that you saw danger in regulating large lake carriers and not the smaller ones?

Mr. CALDWELL: Yes sir.

Hon. Mr. DANDURAND: Where would you draw the line as between small ships and large ones, as to tonnage?

Mr. CALDWELL: I do not know, sir. It would be rather difficult.

Hon. Mr. DANDURAND: You think there should be no discrimination?

Mr. CALDWELL: That is right. If there is to be any regulation, all should be regulated.

The CHAIRMAN: But you believe there should not be any regulation?

Mr. CALDWELL: We do, sir. But if there is to be any regulation, they all should be regulated.

The CHAIRMAN: Everybody seems to be willing to have the railways regulated by the Dominion, but not to have any other class of carrier so regulated. The Minister is trying to arrive at some basis that will be elastic enough to regulate all carriers, a basis that will not be unfair to any class. Having had something to do with trying to control things years ago, I am delighted to see how strongly the trucks and buses are in favour of provincial regulations.

Mr. CALDWELL: There is a lot of good in connection with provincial regulations. Progress is being made every year in connection with them.

The CHAIRMAN: I never heard provincial regulations so strongly endorsed until other regulations were mentioned. You would rather endure the evils you have than fly to those you know not of, is that the idea?

Hon. Mr. MURDOCK: Mr. Chairman, on Saturday last the Hon. the Minister of Transport made a speech before the Canadian Club of Ottawa on Transportation Problems. I move, seconded by Hon. Senator Robinson, that a copy of this speech be placed on the records immediately preceding the Minutes for to-day, so that the members of this Committee will have an opportunity of reading the views expressed by the Minister in that speech.

Hon. Mr. DANDURAND: With all due deference I would demur to the suggestion of my honourable friend, until the Minister is advised of such a motion, because he may desire to make a statement here enlarging upon what he said before the Canadian Club.

Hon. Mr. MURDOCK: At the conclusion of last Saturday's speech, when I shook hands with him, I told him I was going to make this motion, and he said "Thank you."

Hon. Mr. DANDURAND: I was not aware of that.

Hon. Mr. ROBINSON: I heard the speech, and it gave the views of the Minister much more fully than we had them here the other day. I presume he will be before us again, but I do think a transcript of his Canadian Club speech might be supplied to each member of the Committee, so that those members who did not hear the speech could read it. If in order to have that done it is necessary that the speech be transcribed into the Minutes, I should be glad to second the motion.

Hon. Mr. MURDOCK: Mr. Halpin, who usually reports the meetings, took a stenographic record of the speech, and I am told he will have a transcript already prepared to be included in these Minutes.

Hon. Mr. HAIG: Mr. Chairman, it would be a dangerous precedent to place upon the records of this Committee a speech made by a public man at a public meeting. That would not be parliamentary procedure, as I understand it. I think if the Minister wants to make a statement here we would be delighted to hear it. I am entirely in accord with what Senator Murdock wants to have done, to have the views of the Minister placed upon our records, but let the Minister come and address us here. We will put our time at his disposal, for a week or two weeks if necessary. I should be surprised if the leader of this House would allow a speech made to an outside organization to be placed on our records.

Hon. Mr. DANDURAND: I would much prefer that the Minister come here and present his views. Perhaps he could give them to us in the form of a memorandum. I think that would be the more correct procedure.

Hon. Mr. BLACK: I agree with the remarks of Senator Haig. I do not think that a public speech, made before a body not connected with Parliament, should be taken on the records of a Parliamentary committee. Personally I should vote against the motion, if it goes to a vote.

Hon. Mr. MURDOCK: I will change the motion. I move that a stenographic copy of the Minister's speech be given to every member of this Committee.

Hon. Mr. HAIG: That is all right.

Hon. Mr. ROBINSON: I will second that.

The motion was agreed to.

The CHAIRMAN: Is Mr. F. J. Davis here?

MR. F. J. DAVIS, Toronto, representing Great Lakes Division of the Canadian Navigators Federation, Incorporated, and Central Division of the National Association of Marine Engineers of Canada, Incorporated: Mr. Chairman, in the absence of our President, who is at present out on the Pacific coast, I will read this brief:

OTTAWA, Ontario,
February 25, 1937.

The Right Honourable GEO. P. GRAHAM,
Senate Railway, Harbour and Telegraph Committee,
Ottawa, Ontario.

DEAR SIR,—The experience of our Marine Organizations through the recent depression has shown that the principle of competition in the shipping industry has been abused, this to a point where conditions in the industry have become chaotic due to unrestricted and unbusiness-like competition, resulting in the carriage of waterborne traffic at rates far below what is necessary to carry on the industry with fairness and safety to the thousands of Canadian citizens therein employed.

The worth of the shipping industry on the inland waters of Canada is of national importance and it is the feeling of our organizations that if the industry is to prosper and thereby benefit Canadian producers and consumers, it must be brought back to a profitable basis.

Therefore, it is the feeling that in order to bring about proper conditions in the industry the Federal control of rates and conditions is necessary.

It is recognized that, in the main, shipping companies have wished to do business in a fair way, but due to the unprincipled, unethical few, it has resulted in practically all lines being forced into accepting cargoes, etc., at rates so low as to prohibit the paying of a fair living wage to the thousands of Canadian citizens employed in the industry. Furthermore, as a result of this unrestricted, uneconomic competition many operators have been forced to tie up their ships rather than accept cargo at rates below cost, resulting in thousands of employees being deprived of their livelihood and having to seek assistance in the form of relief in order to live.

In filing this brief we trust that it will have your most sincere consideration as it is submitted purely from a humanitarian standpoint.

We believe that the stabilization of rates will ensure proper wages and working conditions for the personnel of our Canadian ships.

Furthermore, in establishing this Transport Commission governing lake shipping we feel that representation from the above organizations must necessarily be included as members of the Board.

Yours truly,

Central Division of the National
Association of Marine Engineers of
Canada, Inc.

(Signed) J. M. KENNEDY,
President.

Great Lakes Division of the
Canadian Navigators Federation,
Incorporated.

(Signed) F. J. DAVIS,
Secretary.

The CHAIRMAN: Any questions, gentlemen?

Hon. Mr. ROBINSON: Is this gentleman supporting the Bill?

Mr. DAVIS: Yes, sir.

Hon. Mr. MURDOCK: Is there a memorandum accompanying that statement?

The CHAIRMAN: Yes. It will go on the record.

Mr. DAVIS: Mr. Telford, M.P., is having a number printed for the Senate Committee.

Hon. Mr. MURDOCK: It is so odd to have somebody speaking in favour of the Bill, would it not be better to put the memorandum on record here rather than let Mr. Telford go to that bother?

Hon. Mr. DANDURAND: This statement goes on the record.

Right Hon. Mr. MEIGHEN: Certainly.

The CHAIRMAN: Does any person else want to ask any questions of Mr. Davis?

Now, Mr. Kennedy.

Mr. J. M. KENNEDY (President, National Association of Marine Engineers of Canada): Gentlemen, I have nothing to add to the brief that has been presented by Mr. Davis. Owing to the unethical developments that have occurred in shipping in the last four or five years the employees and officers have been labouring under very hard times, and unless something is done to stabilize rates and promote fair competition, it looks very much to us as if our Canadian lake shipping will depreciate to such an extent that it will not amount to anything for either Canadians in general or for the people who have followed this vocation for a number of years.

We are only asking to have the rate part of the Bill, so far as we are concerned, in order that we shall be able to get from the operators of the ships on the Great Lakes a fair living wage for ourselves. There is really nothing to add to the brief anything more than to explain what it really means to us.

Right Hon. Mr. MEIGHEN: Mr. Kennedy, could you tell us what the conditions are like in the competing American ships?

Mr. KENNEDY: We have had different statements gathered from time to time from the American shipping, but it does not really amount to anything to us, because to-day they are not in direct competition, the present laws having cut out the coasting of American ships between Canadian ports. The labour on American shipping and the officers are paid in a great many cases 100 per cent more than we are.

Right Hon. Mr. MEIGHEN: That is important because even though American ships are excluded from our coastal business, there is still competition via Buffalo and other American ports, which, if their rates were lower than ours, would lead to a loss of your work.

Mr. KENNEDY: That is right, but under present conditions the British preference of 6 cents a bushel on our principal commodity, grain, going through Canadian ports, which the British are strictly enforcing this year, I believe cuts out considerable of that competition. That is no reason why, using the same waters, carrying the same cargoes, and in the same classes of ships, we should have to depend on 50 per cent of the wages paid on the American side, but that is practically what we have to do.

Hon. Mr. BLACK: Mr. Kennedy, I gather from the brief read by Mr. Davis that there are a good many Canadian seamen out of employment who were formerly employed in lake shipping.

Mr. KENNEDY: Oh, yes, there is a lot of them.

Hon. Mr. BLACK: What is the cause of that?

Mr. KENNEDY: We figure it is cut-throating among the different owners in the open market for cargoes. The ones who will not cut or cannot operate below the operating cost have to tie their boats up and pay the men off any place convenient to tie the boat up, throwing the men on charity.

Hon. Mr. BLACK: Does it not mean there is not enough traffic to keep the boats going?

Mr. KENNEDY: No, because in the majority of the months during the season there are cargoes enough to employ them.

Hon. Mr. BLACK: They cannot be employed and unemployed.

Mr. KENNEDY: Our lake business is seasonal of course, but under this depression, as it has been called during the last four or five years, boats will work for a week or two and then lay off for a month, and again work for a week or two and lay off for another month. During the fall months and the spring there are enough grain cargoes to keep the boats employed.

Hon. Mr. BLACK: If this Bill passes, it seems to me reasonable to suppose that the Commission will regulate the rates upward. Is it not quite possible that the rates will be so regulated that there will be no lake shipping at all, the business will all go by railway?

Mr. KENNEDY: I don't think that will be legislated out, because under ordinary conditions you can ship cheaper by water than by rail. It would be almost out of the question to put rates so high by water that the railways would come in and take the business away.

Hon. Mr. BLACK: I do not think for a minute the railways can compete with water carriage; but if the Commission did equalize the rates the railways would get the business.

Right Hon. Mr. MEIGHEN: If you made the rates anything like equal to the railway rates there would be no business at all for our lake shipping.

Hon. Mr. BLACK: As a matter of fact rail transportation cannot compete with water under any fair competition.

Right Hon. Mr. MEIGHEN: No.

Hon. Mr. BLACK: I do not think any regulation will enable the railways to do so, but I do see the possibility of regulation at certain seasons of the year which would take away business from the boats.

The CHAIRMAN: Don't they have differential rates in the summer between the two? The boat rates are always lower than the rail rates.

Mr. KENNEDY: In some cases four to one.

Hon. Mr. COPP: I gather you are supporting the Bill in the hope that shipping rates on the Great Lakes will be increased, and as a result the transportation companies will be able to pay better wages?

Mr. KENNEDY: Identically, sir; that is our point of view.

Hon. Mr. HARDY: You are speaking on behalf of the employees of the shipping companies.

Mr. KENNEDY: On behalf of the men on board the ships.

Hon. Mr. HARDY: Have you considered what effect the competition of small vessels under 500 tons would have? Those boats would not come under this Bill with respect to licensing and regulation. What effect do you think that would have?

Mr. KENNEDY: A very small effect, because boats of that size would be confined to certain commodities and certain waters, and would not interfere with the main business of lake shipping. It would be only a minor water affair.

Hon. Mr. GILLIS: You are advocating something to regulate and increase rates, which increase will ultimately fall on the shoulders of the producer in Western Canada.

Mr. KENNEDY: I don't get the last part of your question, sir.

Hon. Mr. GILLIS: Grain is the main commodity shipped in boats.

Mr. KENNEDY: It is the principal commodity, yes.

Hon. Mr. GILLIS: The idea of the Bill is to give the Government power to regulate and in all probability increase the rates charged. The people of the West, the growers of grain, which is the main commodity shipped down the lakes, will be the ones who will pay the piper?

Mr. KENNEDY: No. The increase of the regular rate will be so insignificant that as far as the grower, the shipper, is concerned, from Western Canada, he will not be affected. Even in domestic or export trade the increase would amount to very little. Even a rate increase of a cent a bushel would allow the steam-boat companies to pay very much better rates of wages than they are paying to-day; and one cent a bushel to the western farmer don't mean a thing.

Hon. Mr. HAIG: It means a whole lot.

Mr. KENNEDY: Then the grain grower in Western Canada is benefited at the sacrifice of the men in the marine industry. It has always been done at our expense. We know that in past years there have been rates as high as 15, 18 and 20 cents. We feel that a rate now between 7 and 8 cents would allow the owners of shipping to pay a reasonable rate of wages to the crews.

Hon. Mr. GILLIS: What has been the average rate per bushel for the past few years?

Mr. KENNEDY: It has been tried to be set around 6½ cents in the last few years, but we understand it has been cut down as low as 3 cents.

Hon. Mr. HORNER: That is enough.

The CHAIRMAN: Shall we hear Mr. Church for a minute or two?

Mr. T. L. CHURCH, M.P.: Mr. Chairman, I do not wish to detain the Committee more than three or four minutes. Last session and the session before this Association sent me a series of resolutions in reference to shipping on the Great Lakes, and they requested me to attend a convention held at Buffalo. I had a shipping Bill prepared by the law clerk last session, but I laid it over when the Government announced they were considering a Bill to establish a department to regulate transportation over land, sea and lake and in the air. This Bill is now before you gentlemen.

I must say, speaking as a Harbour Commissioner of the port of Toronto for over twenty-six years, I have been amazed at the lack of regulation and control of lake shipping in this country. We are all aware of the recent tragedy of the *Sand Merchant*. She went to the bottom of the lake off Cleveland and eighteen Canadian seamen were drowned—all because of lack of regulation and control of our lake shipping.

When you became Minister of Railways, Mr. Chairman, and I think for a few years before that, a Bill was introduced in the other House, known as the Armstrong Bill, for the purpose of bringing lake shipping under the control of the Railway Commission, both as regards freight rates and labour rates and other conditions. The principle underlying that Bill has been tossed about in this Parliament for the last twenty-five years to my knowledge, and as yet no action has been taken to embody it in legislation. The Armstrong Bill was strongly opposed by the shipping interests and never became law.

There was no effective opposition in Parliament to placing our land services, known as express and telephone services, under the control of the Board of Railway Commissioners. Now, if we have these services regulated on land, why not impose a similar control over transportation by water. In 1868 Samuel Plimsoll caused a great upheaval in shipping circles by his energetic advocacy of shipping reform, and eventually in 1876, when Disraeli was Prime Minister, he succeeded and legislation was passed which gave stringent powers of inspection of ships to the Board of Trade. The mark indicating the limit to which a ship may be loaded is still known as Plimsoll's mark. There is no doubt that that legislation was of great benefit to British seamen. Our lake seamen are British subjects. What right had the owners of the *Sand Merchant*, a river boat, to send her out on the lake? Why should they be allowed to take the sand out of a Canadian harbour without paying a cent for it? The same thing has been done in Toronto. You will remember, Mr. Chairman, when you settled the Viaduct case. Sand was taken out of the harbour, loaded on the docks, washed and handled without any regulation, and then it was sold back to the municipality by private ownership. The *Sand Merchant* was not a sea-worthy ship, and she certainly was not in fit condition to be sent across Lake Erie in the fall of the year.

This Association, Mr. Chairman, consisted of six hundred engineers, and Mr. Kennedy is head of that branch. They sail from Quebec right up to the head of the lakes. The other branch is composed of what you might call officers—captains and first and second mates—and has a membership of about twelve hundred.

There is no other industry that I know of in this country that operates the way the shipping industry does, with no Government regulation whatever over labour hours and rates of pay. Some of these engineers are at work nearly twenty-four hours a day—so long as they can stand on their feet. These boats are out violating the Lord's Day Act; I see them off the exhibition grounds at Toronto working all day Sundays.

I do not wish to detain the Committee, but I just want to say that in my opinion there should be some measure of regulation in regard to these ships. I had intended introducing a bill myself, until this Bill was brought down. Many of these ships are unseaworthy. The *Sand Merchant* had no wireless, no barometer, no aids to navigation, and there was no boat drill. Surely these sailors, Canadian citizens who are supporting Canada's greatest industry, the grain trade, and who are carrying coal from one part of Canada to another should receive some protection. I took the late health officer of the city of Toronto, Dr. Hastings, down to see conditions on some of these lake ships. Talk about the Black Hole of Calcutta! Why, it is nothing compared to some of the places where these men sleep. And yet this Parliament does nothing.

We have no life-saving stations, you may say. All this Parliament pays is \$2,400 for a life-saving station in Pelee Island. Toronto maintains a station at a cost of \$100,000, and that station has to serve the whole of Lake Ontario. Just think of what happened to the *Sand Merchant*; think of what happened at Owen Sound; think of what happened the *Tashmoo*, which ran aground with 1,800 passengers on board. One hates to contemplate what might have resulted. If there is an accident on the lake the poor fellows on board have to wait till rescue reaches them from an American life-saving station. Does this justify the boast of Canadian nationalism?

In my opinion this Bill is absolutely correct, and if you are going to hamstring any portion of it relating to regulation on the Great Lakes, you might as well scrap the whole Bill. These men are doing men's work. The steamers that ply out of the Niagara river, carrying, some of them, 2,500 passengers, get no help from this Parliament. These ships might founder, because of lack of regulation.

I took up the matter of the *Sand Merchant* with the Minister, and a commission was appointed. It seems that the consent of the Minister is necessary to get a prosecution under the Criminal Code. I am talking about what I know, because I have been on board these ships and have seen the conditions under which the men are working and know the wages they are paid. There should be some regulation.

I thank you, Mr. Chairman.

The CHAIRMAN: Now, are we through with the hearing?

Right Hon. Mr. MEIGHEN: I think the Committee is entitled to a little more light on the point raised by Mr. Church. As I understand this Bill, it does not provide any further inspection powers, but has to do with rates. Certainly what Mr. Church has said, if it is correct, is a very severe reflection on the Marine Department, and I think its representatives ought to be allowed to say something.

The CHAIRMAN: I think the Bill deals in a way with equipment. Of course there is inspection now.

Right Hon. Mr. MEIGHEN: I do not think it provides anything further.

The CHAIRMAN: It is provided for in the same way that railway equipment is provided for under the Railway Act.

Would the Department of Transport representatives care to say a word?

Mr. F. McDONNELL: Mr. Chairman, I am the officer of the Department of Transport in charge of the steamship inspection branch. Mr. Church said there was no inspection of ships, such as the *Sand Merchant*, on the Great Lakes. That is not a fact. They are inspected annually. Their hulls, boilers, machinery and equipment are inspected every year. The *Sand Merchant* actually had boats, good boats—one on each side—sufficient for all on board. If they could not get the starboard boat off the port boat was sufficient for the crew. They had life jackets for every person on board, and a certain number of life buoys. It was unfortunate that the ship took a very serious list to port, and that they were unable to get the starboard boat off, but there is no form of regulation that could be devised that would prevent that. The port boat was got off, but apparently the delay was too long, and when it went into the water it capsized. That, unfortunately, is a not uncommon occurrence; but no regulation can be made to prevent boats capsizing under certain circumstances.

As to the ship herself being unseaworthy, I may say that she was examined in the spring of last year and found to be seaworthy. Certain objections have been raised to the type of the boat because she had what might be called open holds. That ship had been engaged in this particular class of employment for twelve years and nothing had happened. There is another ship of exactly the same type which has been employed in the same work, I think, since 1922, and there are thousands of vessels all over the world, of exactly the same type, which go around dredging up the soil in harbours and taking it to sea.

During the investigation some question arose as to whether or not the cargo of the *Sand Merchant* shifted. It may have shifted or it may not. The matter is being gone into further.

Mr. Church also spoke about the engineers having to work very long hours. There is a provision in the Canada Shipping Act which states that a ship is not to be certificated for any class of voyage unless there be a sufficient number of certificated engineers aboard so that the hours of labour in any one day will not be beyond the physical endurance of the men.

Hon. Mr. GORDON: Is that the way it is expressed?

Mr. McDONNELL: Some such wording as that.

Hon. Mr. GORDON: That is rather indefinite.

Mr. McDONNELL: It is a little difficult to put it into words. At any rate, no ship is allowed to run under such conditions that the engineer and crew have to work more than twelve hours a day.

Right Hon. Mr. MEIGHEN: In any one day?

Mr. McDONNELL: In any one day. There might be exceptional cases where, owing to a voyage starting on a particular evening, and finishing at some particular time on another day, a man might have to work an extra hour; but under these circumstances he would be allowed off for three or four days and would have ample rest.

Hon. Mr. McRAE: By way of comparison Mr. Church referred to the quarters on some of the ships as being second only to the Black Hole of Calcutta. I should like to ask if the inspections include inspection and approval of quarters for the crew, and sanitary conditions.

Mr. McDONNELL: The annual inspection requires that the inspector shall be satisfied that the crew's quarters are suitable for the crew to live in. When a ship is first built and registered the crew accommodation is measured up, and there is a certain statutory volume of space allowed for each member.

Hon. Mr. McRAE: Do you in some instances object that the quarters are not satisfactory?

Mr. McDONNELL: Oh, yes.

Hon. Mr. DANDURAND: Has Mr. Hinds any correspondence?

The CLERK of the COMMITTEE: The following communications have been received:

Hon. C. D. HOWE,
Minister of Transport, Ottawa, Ont.

PASADENA, CALIF.

Surprised to notice in Globe of February 17, G. P. Campbell statement speaking against your Bill. Do not know what corporations he represents, but you can be assured that ours not in the 75 he mentions. Big calamity to transportation if Bill should not pass. Regards.

Jas. Playfair.

VIRDEN, Man.

The Hon. Mr. HOWE,
Minister of Transportation,
Ottawa.

That this Virden community Board of Trade sitting in session this Monday evening, February 22, 1937, unanimously oppose the set-up of any commission that would have complete control of all transportation of Canada and urge the control of highway transportation be left as at present in force.

THE VIRDEN COMMUNITY BOARD OF TRADE,

FREWEN J. DAVIS, *Secretary.*

MONTREAL, Que.

Hon. Geo. P. GRAHAM,
Chairman, Standing Committee on Railways,
Ottawa, Ont.

After reviewing the evidence submitted to you by this Association on the 16th in connection with Senate Bill B, we believe that possibly sufficient stress was not made of one of the most important features. At present Canada enjoys a preference on her wheat going into the United Kingdom of 6 cents per bushel and we maintain that without this preference grain would travel to all markets via the cheapest route and this would undoubtedly be via the American lake ports and no control could be exercised over American vessels by Canada. Should this preference be extended to other than Canadian routes the fallacy of trying to control Canadian lake rates is obvious.

H. K. STARNES,
President, Montreal Corn Exchange.

SARNIA STEAMSHIPS, LIMITED

OF SARNIA, ONTARIO

PORT COLBORNE, Ont.,

February 15, 1937.

Honourable C. D. HOWE,
Minister of Transport,
Ottawa, Ont.

DEAR SIR.—As there is presently before the Senate Committee an Act to establish a Transportation Commission with authority in respect to transport by ships, I take this opportunity of presenting the views of my Companies on this most important question.

We represent through ownership and operation the following Steamship Companies:—

- (1) Colonial Steamships Limited—operating 7 Upper Lakers and 4 Canallers.
- (2) Sarnia Steamships Limited—operating 6 Canallers.
- (3) Huron Steamships Limited—operating 7 Canallers.
- (4) McKellar Steamships Limited—operating 2 Canallers.

In all, we own and operate 26 vessels, representing 15 per cent of the Canadian Bulk Tonnage Inland. These vessels were built for the transportation of bulk commodities and have been used primarily in grain trade.

The Railway Commission performed a yoeman service as it acted as a brake between the Railways who knew the transportation business and the Public who were ignorant of what a fair rate might be; while in the water carriage business, all dealings are between parties who are fully aware of all factors, to apply the same principle to different types of Carriers, such as Railways, Vessels, Airplanes and trucks, is certainly invading a field that has many and diversified angles.

As Ship-owners we object to this principle for the following reasons:—

(1) The Inland Waters of Canada are the natural heritage of the people and it must be admitted that the Great Lakes waterway largely made possible the development of the Western wheat fields. As such, no restriction by way of freight rate or tariff should be applied to the law of Supply and Demand that has for so long governed on this great, important waterway. The law of Supply and Demand should never be interfered with except as a desperate measure of last resort. Government intervention should be the last remedy.

(2) In the carriage of grain alone, may I point out that the low-cost, supply-and-demand-governed, waterway developed the world market for Canadian wheat and any interference with the vessel owner's business will not only react to his disadvantage but will inevitably injure the western producer, and the inland bulk carrier is a vital factor in transporting his goods to market.

(3) The government may fix rates for grain used domestically or for export to the United Kingdom where a preferential tariff is in force, but the minute a rate is set for grain for export to ports other than in the United Kingdom, then foreign, particularly United States, vessels will step in and carry the grain to the nearest American port—likely Buffalo, where transfer will be made to Erie Canal Barges for trans-shipment to tidewater. It must always be kept in mind that the Erie Canal from Buffalo to New York fixes a rate—governed by Supply and Demand—that after all, establishes the carrying rate to tidewater. Should any rate above this be set, all grain for export, except to the United Kingdom, will follow this route and there is at present no power in Canada to control it.

(4) There appears to be no way of controlling or prohibiting the export of grain through U.S. ports, except to countries where preferential tariffs designate that shipment be made through Canadian ports, and while the latter may be hard for the U.S. to bear, it is certain that to try to control the port of export to foreign countries would lead to reprisals in other forms from the U.S.—in the carriage of coal for example.

(5) We wish to point out that any tariff that increases the cost of handling grain must decrease the volume handled, and it will militate against the Western farmer primarily, the Lake Carrying Companies secondly, and all other concerns such as elevators, terminals, etc., together with the labour employed therein. We naturally welcome any arrangement or control that would cut down the present cut-throat competition, but we are afraid that any agreement or tariff would be impractical and it in turn would certainly decrease the volume of business.

(6) In 1922 the Government of the day experimented with a rate control that lasted for a very short period. The American vessel owners found more remunerative employment in foreign fields and immediately deserted the Canadian controlled field.

One of the strongest arguments against the Bill, is the experience of the United States in Inland water carriage. With their Interstate Commerce Commission acting as one of the most powerful rate controlling bodies in the world, they have recognized the absolute necessity of controlling bulk traffic by water only by the law of supply and demand, and while they do control package freight rates, they leave bulk freight entirely alone.

(7) The Bill cannot possibly work practically. Anyone familiar with the grain business knows that freight rates must fluctuate rapidly. It is inconceivable that a body such as that proposed could possibly afford the necessary time, attention and despatch, to assist in the very necessary obligation to move Canada's grain crop speedily, economically and efficiently to tide water.

(8) The proposed Bill is a definite interference with the freedom to enter into contracts. Much has been heard recently about the sacredness of contracts, and we submit that this proposal definitely alienates the rights of shippers and carriers to enter into arrangements satisfactory to both, and as such is not sound legislation.

We base our objection to the Bill primarily on the effect it would have on the grain trade and ask that in view of the above, that due consideration be given to all angles before embarking on a policy that appears to be impractical in so far as concerns control of the entire trade.

All of which is respectfully submitted.

JOHN O. McKELLAR,
Secretary of the above four lines.

ONTARIO MOTOR TRUCK OWNERS ASSOCIATION

TORONTO, February 20, 1937.

The Right Honourable G. P. GRAHAM, P.C., Chairman,
Standing Committee on Railways, Telegraphs and Harbours,
The Senate, Ottawa, Ont.

DEAR SIR,—The Executive Committee of our Association is carefully considering the provisions of the Bill now before the Senate which provide for the establishment of a Board of Transport Commissioners with authority in respect to transport by railways, ships, aircraft and motor vehicles.

The provisions of the Bill in relation to motor vehicles are of such a character, in the opinion of our executive, as to confer on the proposed Transport Board powers which would conflict with the authority of the Ontario Department of Highways in controlling and regulating the use of Ontario highways by motor vehicles. The duplication of regulatory measures would also mean added expense and inconvenience to the motor vehicle owners of this province, thus placing a larger load on the already over-burdened shoulders of the business of the country.

Our Executive Committee, feeling that the full control of motor vehicle traffic in this province should remain vested in the Department of Highways, takes exception to the features of the Bill which relate to motor vehicles. Our committee has full confidence in the Department of Highways as an administrative body charged with regulating the use of the highways of Ontario, and therefore wishes to place itself on record as strongly opposed to federal regulatory measures which would come in conflict with the provincial highway authority.

We would respectfully direct your attention to the recommendations of the Dominion-Provincial Conference of 1935, as contained in the report of the Committee on Tourist Traffic and Transportation, dealing with regulation of motor truck traffic by the provinces. We believe that these recommendations, if carried out, would go a long way towards solving the problems of highway transportation, which are the subject of that part of the Senate Bill B which pertains to highway traffic.

The Ontario Motor Truck Owners' Association, organized in 1919, operates as a branch of the Ontario Motor League, and endeavours to serve the interests of motor truck owners in such a manner as the interests of passenger car owners have been served by the Ontario Motor League. Its primary interest is in regulations governing the use of motor truck by business concerns operating trucks in the conduct of general business.

All of which is respectfully submitted.

Yours very truly,

ONTARIO MOTOR TRUCK OWNERS' ASSOCIATION,

(Sgd.) W. G. ROBERTSON,
Secretary-Treasurer.

CANADIAN BROTHERHOOD OF RAILWAY EMPLOYEES

C.B.R.E. BUILDING, OTTAWA,

February 20, 1937.

The Right Honourable GEORGE P. GRAHAM,
Chairman, Senate Railway Committee,
The Senate,
Ottawa, Canada.

Dear Mr. GRAHAM,—I wish to inform your Committee that the Canadian Brotherhood of Railway Employees, representing over 14,000 railway workers in Canada, wholeheartedly approves the Bill providing for the establishment of a Board of Transport Commissioners for Canada, with authority in respect of transport by rail, ship, aircraft, and motor vehicle, which it is now considering.

The Brotherhood has, for a number of years, urged control by the Federal Government of all forms of transport in Canada. It is strongly of the opinion that our transportation problems cannot be solved without such control, and we feel that the action of the Government in initiating the legislation should be supported. We therefore hope that the Bill will receive the endorsation of the Senate and the House of Commons.

Yours very truly,

(Sgd.) A. R. MOSHER,
President.

MONTREAL TRAVEL AGENTS' ASSOCIATION

OFFICE OF THE SECRETARY TREASURER
1103 BEAVER HALL HILL

MONTREAL, February 18, 1937.

Rt. Hon. G. P. GRAHAM,
Chairman, Standing Committee,
on Railways, Telegraphs and Harbours,
The Senate,
Ottawa, Ont.

Senate Bill "B"

DEAR SIR,—At a regular meeting of the Montreal Travel Agents' Association held yesterday the question of Bill "B" naturally came up. Some of the members of this Association, which is composed of companies engaged in the promotion and sale of travel, were agitated over the proposed legislation in regard to the licensing of brokers, Part VII, particularly Section 5. We presume that this bill does not undertake to prescribe the actual regulations; nevertheless we would like to feel that if the principle of issuing licences for the sale of tickets and the conductings of tours and cruises, shall be issued to bona fide and qualified ticket agents and not to any person or institution terming themselves for the moment "organizers" and that if the ticket agent or company deals in passenger transportation by all the recognized means of transportation, rail, air, highway or water, that one licence shall be sufficient and that the agent shall not be required to purchase a separate licence for each mode of transport.

This letter is written without prejudice and without reference to the merits of the Bill which we understand was primarily conceived in the interests of the handling of merchandise.

Assurance and clarification on the points raised by us would be appreciated.

Yours faithfully,

GUY TOMBS,
President.

ALBERTA WHEAT POOL

LOUGHHEED BLDG.,

CALGARY, ALTA.

February 20, 1937.

HON. C. D. HOWE,
Minister of Transport,
House of Commons,
Ottawa, Canada.

DEAR MR. HOWE,—We understand that it is the intention of the Government to establish under your Department a Commission, whose duty it will be (among others) to regulate freight rates on inland waterways.

We are not unmindful of the fact that as a result of intense competition among shipping companies, freight rates have been reduced at times to a point which made it difficult for that industry to function on a profitable basis, and we recognize the ethics which prompts the correction of such conditions.

We would respectfully point out, however, that if the adjustment of these conditions involves the fixing of higher inland shipping rates, such increase in rates will be reflected directly back to the wheat producer of Western Canada, who, unless he receives equivalent consideration and protection is not able to carry the added burden entailed.

We trust this feature will not be overlooked in any decision which your Government may reach in this matter.

Sincerely yours,

R. O. GERMAN,
Secretary.

ONTARIO FLOUR MILLERS ASSOCIATION

TORONTO, 164 JANE Street,

February 23, 1937

The Honourable C. D. HOWE,
Minister of Transport,
Ottawa, Ontario.

DEAR SIR:

With reference to the proposed new transportation bill we beg to advise you that this Association supports the provisions in the bill to regulate lake shipping and establish minimum freight rates on grain.

It is contended that transportation costs are factors in the establishing of grain costs in international competition, and anything that may be done to regulate such transportation costs would be detrimental to Canada's export grain trade. Thus water transportation should remain unregulated so that they would be free to meet changing conditions. However, Railway transportation rates and water transportation rates are both cost factors, and the one regulated and the other unregulated is unfair to those engaged in export business and dependent in large measure on rail transportation.

Members of this Association get their Wheat from the Bay Ports and have then to ship the resultant products—flour and feeds—East by rail. These rail rates are fixed by the Railway Companies under the supervision of the Board of Railway Commissioners. In the case of export business our members compete in the U. K. for instance with U. K. Mills getting their wheat at unregulated water rates from the head of the lakes to Montreal and Quebec. These water rates as you know are often so low as to be unremunerative to the water carriers and thus the overseas millers with whom our members compete in these overseas markets have a considerable advantage.

The boats do not pay canal dues as the upkeep of the canals is taken care of by the Federal Government—by taxation. Thus the Ontario Miller is taxed for the upkeep of these canals enabling his competitor overseas to get a rate on wheat which does not include cost of canal upkeep.

Built into the rail rates of course, is cost of upkeep of permanent ways. The canals are in a sense a permanent way of the boats, yet they do not bear the cost of upkeep.

Further, the Railways have power to meet these low water rates and claim they do so at a loss. The loss therefore must be made up by taxation or must be absorbed somewhere with a consequent effect on rail freight generally.

We understand that Steamship Lines operating in the lake grain trade have, of their own accord, in past years, endeavoured to correct the chaotic conditions brought about by low rates, thus indicating a need for some arrangement or regulation.

We feel that the low rates at which the water carriers have transported grain provided unfair competition to our mills and therefore we favour regulation which would eliminate to some extent the disparities arising out of the water carriers being unregulated and the railways regulated.

Yours very truly,

G. S. McARTHUR,
Secretary-Manager

THE BOARD OF TRADE OF THE CITY OF TORONTO

TORONTO, February 23, 1937

The Right Honourable GEO. P. GRAHAM,
Chairman,
The Senate Committee on Railways,
Telegraphs and Harbours,
Ottawa, Ont.

DEAR SIR:

Senate Bill B

“An Act to Establish a Board of Transport Commissioners,” etc.

The Council of The Board of Trade of the City of Toronto, with the assistance of its interested Committees and Trade Branches, has carefully studied Senate Bill B, “An Act to Establish a Board of Transport Commissioners for Canada with authority in respect of Transport by Railways, Ships, Aircraft and Motor Vehicles” and desires to respectfully submit the following comment with regard thereto.

Stability of the rates charged for the carriage of goods is considered by The Board of Trade of the City of Toronto to be an essential factor in all forms of transport. This Board strongly advocated the passing of the Railway Act and the appointment of the Board of Railway Commissioners to administer it. Prior to the enactment of the Act in 1903, there was no stability in transportation rates and services but chaotic conditions prevailed. The enforcement of the Act since that date has removed these undesirable conditions with material benefit to both railways and shippers.

Part II. Transport by Water

This Board favours the control of intercoastal transport by water, including bulk grain carriers, as proposed by this Part of the Bill, in the belief that such control would result in the stabilization of rates which would ultimately prove to be in the best interests of all concerned.

It is desired, however, to direct your attention to one section, namely, Section 8, Sub-section 3, which provides that

The Governor-in-Council may on the recommendation of the Board by proclamation extend the application of this Part to transport by means of ships registered in Canada over any sea or inland water on or in respect of which this Part is in force between ports or places in Canada and ports or places outside of Canada.

The application of this sub-section would appear to give a preference to ships of foreign registry engaged in transport between Canadian and foreign ports since ships of Canadian registry are required to be licenced to engage in this international traffic and their operations controlled while those of foreign registry are exempt from licensing or control. It is the view of this Board that, insofar as may be possible, all classes of ships should be placed under control.

Part III, Transport by Air

The Board of Trade of the City of Toronto has no objection to offer to the control and regulation of aircraft as provided for in this Part.

Part IV, Transport by Highway

While this Board considers some measure of control over motor vehicle transport is most desirable and has so advocated for several years, it is believed the dual control between the Federal and Provincial Governments which would follow the adoption of this Part of the Bill would tend to create conflict and burdensome and chaotic operating conditions. In view of this eventuality and also that the Provinces now control the highways and have jurisdiction over motor vehicle transportation, it is respectfully recommended that the regulation of highway transport remain within the jurisdiction and control of the Provinces and that, accordingly, Part IV of the Bill should be deleted.

Part V, Harbour Tolls

It is assumed this Part refers only to National Harbours which come under the jurisdiction of the National Harbours Board and that, accordingly, the Toronto Harbour is not involved. Under these circumstances, we have no comment to make on this Part.

Part VI, Agreed Charges

This Part provides for the making of agreements or contracts between traders and carriers for the transport of any class of goods at rates other than those published in the tariffs of tolls, which under the Railway Act are the legal rates to be charged, provided such contracts receive the approval of the Board of Transport Commissioners. In the opinion of the Board of Trade of the City of Toronto, such a procedure in the making of rates would be a retrograde step. It would be contrary to the principle of the Railway Act for which shippers fought for many years prior to its adoption in 1903 and which has since stood the test of time and would be a return to the former wholly undesirable state of confusion and uncertainty on the part of shippers and unwarranted discrimination as between shippers of similar commodities. In the interests of the stabilization of rates and equity as between shippers, it is strongly recommended that this Part of the Bill be deleted.

Part VII, Brokers

This Part prohibits any one, other than the carrier's agent, from assisting in the collection of shipment for transport unless such person is licensed. It is well known there are in existence firms which have for many years with the tacit sanction of the carriers, consolidated into carload lots small shipments

from different shippers and have thereby saved consignors and consignees some expense as between the less than carload and carload rates and charges and considerable time in transit.

If it is the purpose of this Part of the Bill to impair or limit this valuable service of consolidating shipments, it is submitted the Bill should be amended to enable the present practice to continue without interruption or the Part entirely deleted from the Bill.

Respectfully submitted,

F. D. TOLCHARD,
General Manager.

J. J. GIBBONS,
President.

McCOLL-FRONTENAC OIL CO. LIMITED

EXECUTIVE OFFICES

ROYAL BANK BUILDING

MONTREAL,

February 24, 1937.

The Rt. Hon. Geo. P. GRAHAM,
Chairman,
Standing Committee on Railways, Telegraphs and Harbours,
The Senate,
Ottawa, Ontario.

DEAR SIR.—With reference to proposed Bill “B,” an Act to establish a Board of Transport Commissioners for Canada, we wish to submit our views showing the detrimental effect that the proposed Act would have on our marine operations.

Our submission is as follows:—

McCull-Fontenac Oil Company Limited, are interested in the operation of three tankers built specifically for use on the Great Lakes and coast-wise waters of Canada, their territory extending from Maritime ports, for example, Saint John or Halifax, to Fort William, Ontario. Due to the particular trade conditions in the industry, seasonal and yearly, the ports or areas in which our tankers operate, are continually changing, a tanker may be leased for one or more trips and in turn, a tanker may be chartered, or cargoes of Fuel Oil may be handled for large industrial plants from our refineries.

We are greatly concerned as to the effect the broad implications of the Act may have on the movement of our water-borne tonnage, due to the many variable conditions involved in the operation of the type of shipping constructed especially for our industry.

The Section covering Transportation by Water is so broad in its application it is difficult to say definitely, the ultimate result it will have on our industry, except there would be a considerable increase in our operating and administration costs. These ships were built for one specific purpose, namely, the handling of bulk cargoes and they would be under the heading of “Contract Carrier” or “Tramp Carrier,” i.e., they carry a single bulk cargo consisting of bulk petroleum, vegetable oils, coal, grain, etc. The operation of this type of vessel is either through direct ownership or charter. Charter party may run for a number of years, there may be a specific time limit, a season, or only a single voyage, and change in destination of a ship may have to be made overnight. Full liberty to make quick changes in contract arrangements or movement of vessel is essential. Any regular Line Service, or coast-wise organization

operating under Conference Rates is not interested in and cannot meet the demands of this particular trade.

At the time of the National Recovery Act in the United States, endeavour was made to subject foreign and domestic tramp vessels to the same regulations as common carriers; the effort was useless due to the nature of the business conducted by tramp vessels, it being found it was not feasible to fix rates or require the filing of tariffs by contract carriers or foreign tramps therefore no shipping code was created.

There are only approximately 23 tankers owned and operated by Canadian Oil Companies, and approximately 20 tankers owned by American Oil Companies on the Great Lakes and St. Lawrence Waterway, a very small factor compared with total lake shipping. Due to the very specialized type of construction (it being physically impossible to be used for other than a bulk liquid commodity) the large area in which they are operating, no set schedule, fluctuating changes in demand, conditions varying from day to day, this tramp type of ship is a most inappropriate subject for regulation and should not be compelled to come under the proposed Transportation Act.

With reference to that part of the Act which regulates rates, it would be a very difficult problem to endeavour to formulate a system of tariffs as called for under the Railway Act to cover this specialized type of bulk carrier and the extreme difficulty any board would have in endeavouring to prescribe what is a correct normal charge for local distribution in comparison with an agreement or charter to cover one voyage, or a complete seasonal contract which later might necessitate movements in the Maritime provinces, St. Lawrence Waterways, or movements restricted entirely to the Great Lakes. Under a charter party, entirely different rates would be called for based upon a time limit, number of trips required, ports of call, season of the year and the general condition of the market. The Law of Supply and Demand with the small specialized type of tonnage available might result in a charter being made on altogether different rate levels than the domestic charges published by individual companies for their own local movements.

Competition within the industry, both domestic and from the United States, with regard to transportation, also product, necessitates continual changes in our operations, and considerable loss might result if we were unable to make necessary schedules or toll changes immediately, without referring the whole problem to any board for necessary authorization.

We would suggest that your Committee endeavour to divide Canadian shipping into different categories:—

1. Common Carrier shipping, moving over regular routes, on schedules, in direct competition with other types of transportation for the same class of traffic.

We do not attempt to speak for this section of Shipping, inasmuch as our vessels are not common carriers and interested parties are entirely competent to speak for themselves.

2. Specialized type of bulk cargo vessels, for example, type operated by our Company.

In the latter case we cannot see that any useful purpose would be served by including this type of vessel under the proposed Act.

It may be stated that certain Sections are only to be placed in operation when notice has been given that they shall come into effect and that the Governor in Council may exempt any ship or class of ships. This is correct, but if the Act is passed as it is, the Section in question could be put into effect at any time and would leave us in a state of continued uncertainty. If at a later

period, further restrictions on the movements of Canadian products by water should appear necessary then, amendments to the Act can be considered after a thorough investigation of each individual type of competitive tonnage, or product, but as stated we cannot see the necessity of penalizing the entire Canadian water transportation service because one type of traffic may be in difficulties.

There is one other Section we would wish to draw to your Committee's attention, namely Section V covering Harbour Tolls. At present, the National Harbour Board has jurisdiction over seven Canadian Ports. No doubt, the intent of the Act is to gradually extend the area and the number of Ports under the said Board. We further understand the intent of the Board is to endeavour to unify tolls; in other words, a similar toll at the Ports of Montreal or Vancouver. Rigid tolls may result in gradual increase in operating costs through certain Ports and if no advantages are given to the specialized type of manufacturing of a particular commodity handled through one principal Port, for example Petroleum in Montreal, Lumber in Vancouver, the result may be that certain industries might locate outside the zone areas under the control of the Harbour Board and by building their own dockage facilities reduce their operating costs with resultant loss to the Harbour Board. This, in turn, might force other units of the industry to follow the same procedure.

Under Section 19, Part V of proposed Act, the Canadian Manufacturer, or Shipper, is given a round-about method of appealing any Harbour Toll that he may consider is damaging his particular industry. The appellant has to first secure the permission of the Minister to have the case referred to the Board for an enquiry. When the enquiry is completed, which may have incurred considerable costs, the Board is again ordered to refer their report back to the Minister and the Minister may agree with the Board's finding, make the finding public, or close the case. Further, the National Harbours Board Act, Section 15, Subsection 1, gives an option to commute any rates or tolls as the Board deems expedient. Under the proposed laws it is very doubtful if we would ever be in a position to know what tolls were actually being charged, or whether discrimination existed.

We would therefore suggest that the proposed Board of Transport Commissioners be given the necessary authority to decide questions relative to Harbour Tolls, thereby enabling any Manufacturer, Shipper, etc., who feels his trans-shipping costs are out of line to request a hearing by the Transport Board without the necessity of first securing permission to have his case heard.

Respectfully submitted,

McCOLL-FRONTENAC OIL COMPANY, LIMITED,

Per V. SMITH,
Traffic Manager.

The CHAIRMAN: I have a memorandum that I was asked to place on the record in reference to a discussion that we had the other day. Not being a legal man I do not know anything about this, but I will read the correspondence.

DEPARTMENT OF EXTERNAL AFFAIRS

OTTAWA, February 23, 1937.

Dear SENATOR GRAHAM,

Pursuant to my telephone conversation with you of this morning, I am sending you a memorandum which sets forth the views of this Department as to the continuance of certain treaties with foreign countries under the provisions of which certain foreign ships have privileges in this country.

Speaking generally, these treaties accord most favoured foreign nation treatment to the shipping of the countries concerned. They include, of course, provisions for most favoured foreign nation treatment in respect of customs and other matters and form the basis, not merely of the rights of Canadian shipping abroad, but also of Canadian trade with an important group of foreign States.

There is some danger that the statements contained on the record of the Proceedings of the Senate Railway Committee, dealing with Bill B, at pp. 129 and 130, might be misunderstood. Accordingly, in the memorandum I have endeavoured to set forth the actual situation, and hope that you may find it possible to incorporate it in the record; or alternatively, our legal adviser, John E. Read, K.C., could, if desired, discuss the point with you or with the Committee.

Yours sincerely,

(Signed) O. D. SKELTON,

*Under-Secretary of State for External Affairs.*MEMORANDUM—PROCEEDINGS BEFORE SENATE RAILWAY
COMMITTEE ON BILL B (TRANSPORT BILL)

1. The record of proceedings of the Standing Committee on Railways, Telegraphs and Harbours, on Bill B, at pages 129 and 130, contains evidence with regard to the position of Canada under treaties with foreign states and with regard to the rights of foreign states under such treaties, particularly in so far as they may affect the shipping trade. This evidence is likely to cause misunderstanding in the minds of interested foreign governments.

2. There appears to be some misunderstanding as to the treaty relations between Canada and foreign States, including Norway, in so far as shipping is concerned.

3. No foreign State had, by treaty, the right to participate in the coasting trade of Canada. Consequently, no legislation enacted by the Parliament of Canada in recent years, dealing with the coasting trade, has had any effect upon the treaty position.

4. There are treaties, which are still in force, controlling the relationships between Canada and foreign countries, including Norway, which affect the rights of Canadian ships in foreign waters and the rights of foreign ships in Canadian waters. No legislation enacted by the Parliament of Canada, whether in 1934 or in any recent years, has impaired in any way the obligations of these treaties, or has been inconsistent in any way with their provisions.

5. There does not appear to be any basis for the views expressed in this part of the record, to the effect that these treaties, upon which a very substantial part of the foreign trade of Canada is based, have been impaired or denounced, whether by implication or otherwise, as a result of recent Canadian legislation.

They cannot be changed or impaired in any way, other than by agreement between the Government of Canada and the Government of the foreign State which is concerned, or by determination in accordance with their provisions. It is, of course, recognized that legislation inconsistent with the provisions of a treaty, whether in Canada or in the foreign State concerned, would prevail in the Courts, but the enactment of such legislation would be regarded by the other contracting party as being in itself a breach of the international obligation resulting from the treaty. It should, however, be noted that the Parliament of Canada has not, at any time, enacted legislation contravening obligations imposed on Canada by valid and subsisting treaties with foreign States.

6. There is one point of fact that requires correction. The treaty with Norway is referred to as being an old treaty, a statement which conveys a misleading impression. Presumably, the reference is to the Convention of Commerce and Navigation between Great Britain and Sweden, which was signed at London the 18th March 1826. After the separation of Norway and Sweden, a new Convention was entered into with Norway, dated the 16th May, 1913. This Convention made it clear that the Convention of 1826 still governed questions of trade and navigation and it contained a special provision that it should be subject to termination on twelve months' notice in respect of the several Dominions. Consequently, the Convention is now, essentially, an arrangement, recently recognized as existing between Canada and Norway, but which either Canada or Norway can terminate by giving twelve months' notice, without affecting the position as between Norway and other parts of His Majesty's Dominions. A similar arrangement was embodied in a declaration between Great Britain and Sweden, dated the 27th November, 1911.

Right Hon. Mr. MEIGHEN: The only question akin to the point raised there, that I can recall, was a question of invasion not of treaty rights with foreign countries, but of treaty rights with British countries.

The LAW CLERK: The question was asked, I think, as to whether any foreign countries had any rights. I said that question had arisen when we were considering the Shipping Act, and that I had then said I did not know, and I still proudly professed to the same fact. Mr. Burchell, however, was present, and as he is handling this subject about six months of every year, as lecturer at Dalhousie upon shipping, I said he would know and that I would instantly defer to his opinion. Thereupon he was asked for his opinion and gave it, that the effect of the Merchant Shipping Act, in so far as it went, would be to cut into these treaties, no matter what they might contain. And I said "You mean by law, as distinct from state obligation?" and he answered "Yes." Well, as I heard Dr. Skelton's letter, that is what he is saying.

Right Hon. Mr. MEIGHEN: But Dr. Skelton says there is no law, that the Merchant Shipping Act does not intervene.

The LAW CLERK: That is a difference of construction of the Merchant Shipping Act. Mr. Burchell says that in his judgment the Merchant Shipping Act would have the effect of cutting into the treaty obligations. Treaties are between states and have no binding effect upon individuals of the states until there is national law enacted binding the individuals. Mr. Burchell's point was that our national law, binding the individuals, that law which would be enforced in a court of Canada, disposes of any treaty that does exist. But he added that he would like to have an opportunity of looking further into the matter, that the Committee should not regard his opinion as conclusive.

Hon. Mr. COTE: The statement by the Law Clerk is substantially correct. I remember very distinctly saying, when we were studying the Merchant Shipping Act, that we would take it for granted that the treaty with Norway was still in force, and I mentioned this point the other day. I was told by Mr.

Burchell and Mr. O'Connor, the Law Clerk, that the treaty was very old and was no longer in force, that we had legislated and it was gone. I tried to get them to say whether it was gone by implication or had been denounced by statute, and then they started to do a little bit of fancy skating which I could not follow. However, the situation is made quite clear by the memorandum of Dr. Skelton.

The CHAIRMAN: Now, to what date shall we adjourn for further consideration of this Bill?

Hon. Mr. DANDURAND: The only possible day that we can assign for the summing-up by the Minister is next Thursday.

The CHAIRMAN: Of course we have other work to do in the meantime. But so far as this Bill is concerned, shall we adjourn till next Thursday at 10.30 a.m.?

Some Hon. SENATORS: Carried.

Further consideration of Bill B, an Act to establish a Board of Transport Commissioners for Canada, with authority in respect of transport by railways, ships, aircraft and motor vehicles, was postponed to Thursday, March 4, at 10.30 a.m.

CORRECTIONS

CANADIAN AUTOMOTIVE TRANSPORTATION ASSOCIATION

HEAD OFFICE: OTTAWA, CANADA

301 OTTAWA Electric Bldg.,
OTTAWA, February 23, 1937

Mr. A. H. HINDS,
Clerk of the Standing Committee on
Railways, Harbours and Telegraphs,
The Senate, Ottawa.

DEAR SIR:

I call your attention to the following errors in the record of the submission I made on the 19th instant, and would be much obliged if they could be corrected—

Page 190, for the last word of line 17 and the first word of line 18, viz., "partakes of," substitute "appears like."

Page 193, line 10, for the words "this morning," substitute "yesterday."

Page 197, line 30, after the word "doing" insert the words, "a great."

Page 199, line 25, for the word "provisional" substitute the word "provincial."

Yours very truly,

M. J. PATTON,
Executive Secretary

GRAY COACH LINES LIMITED

35 YONGE STREET, TORONTO, 2

February 20, 1937

Our Reference 11-35-10.

DEAR MR. BERRYMAN:—

There are two trifling errata in the printed report of my remarks.

On page 163, line 38, where I say—"I think I could say for the busses of Canada that there would be." the word "not" should be between "would" and "be."

Then, on page 167, line 22, where I am made to say—" . . .the average motor bus in the province pays \$195 per vehicle per year," this amount should be \$925, or the same as stated on page 164.

I do not know that anything can be done about these matters but, if it can, I am bringing the matter to your attention.

Yours faithfully,

IRVING S. FAIRTY,

General Counsel

F. BERRYMAN, Esq.,
Official Reporter,
Senate of Canada,
Ottawa.

CANADIAN AIRWAYS LIMITED

WINNIPEG, MAN.

February 19, 1937

A. H. HINDS, Esq.,
Secretary,
Senate Committees,
Ottawa.

DEAR SIR:

May I refer you to Proceedings of the Standing Committee on Railways, Telegraphs and Harbours on Bill B, issue number 4, in which there are two typographical errors in reporting my evidence.

The first error appears on page 114, line 18, which reads:

Mileage on the route from Montreal to Vancouver is only 578.

The figures 578 should read 4978.

The second error is very serious and conveys an entirely wrong meaning. It occurs in the second last line at the foot of page 118 and reads:—

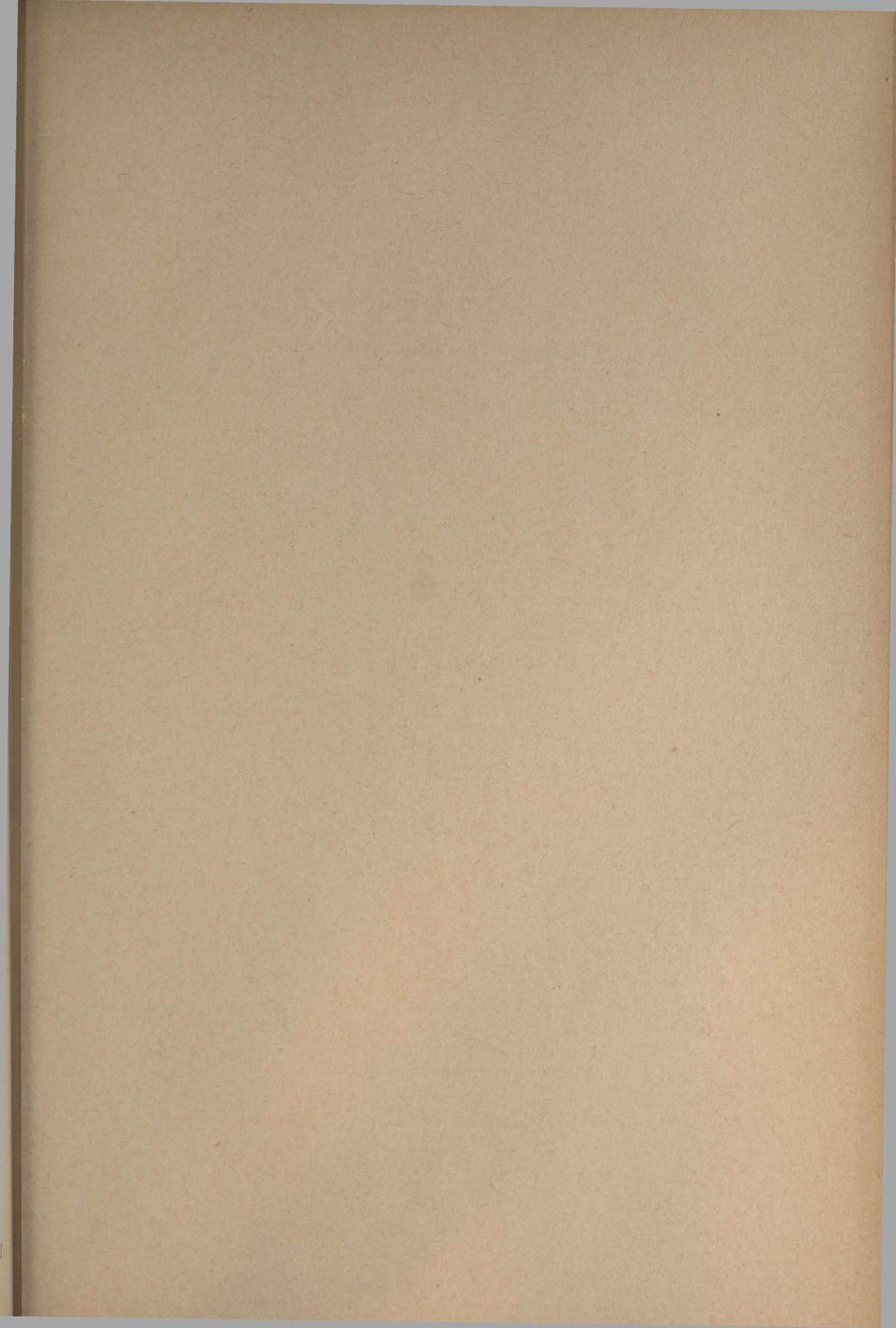
We are *now*, however, favourably disposed to . . . This should read:
We are *not*, however, favourably disposed to . . .

It would be appreciated if you would draw this to the attention of the Standing Committee and make any necessary corrections.

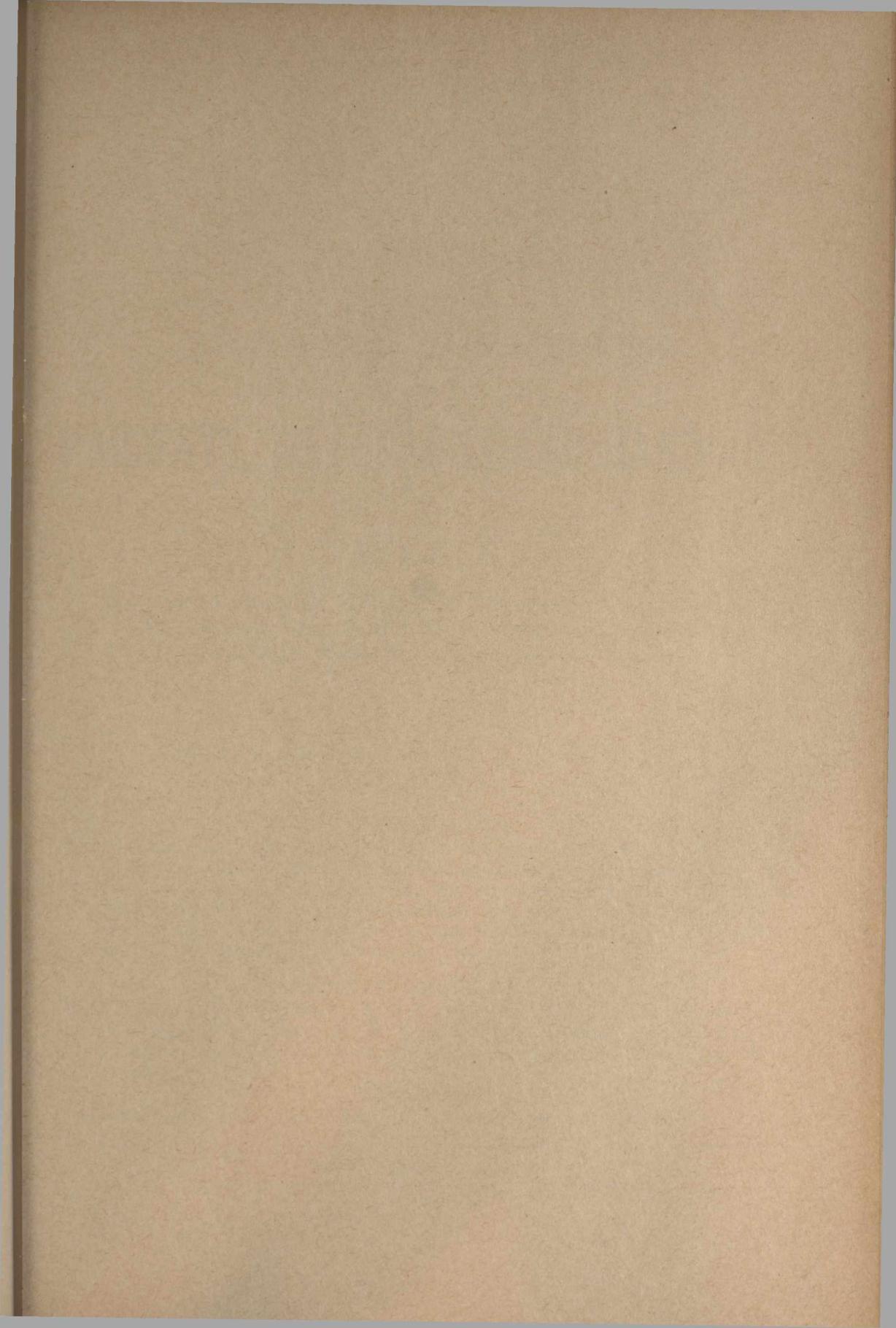
Yours very truly,

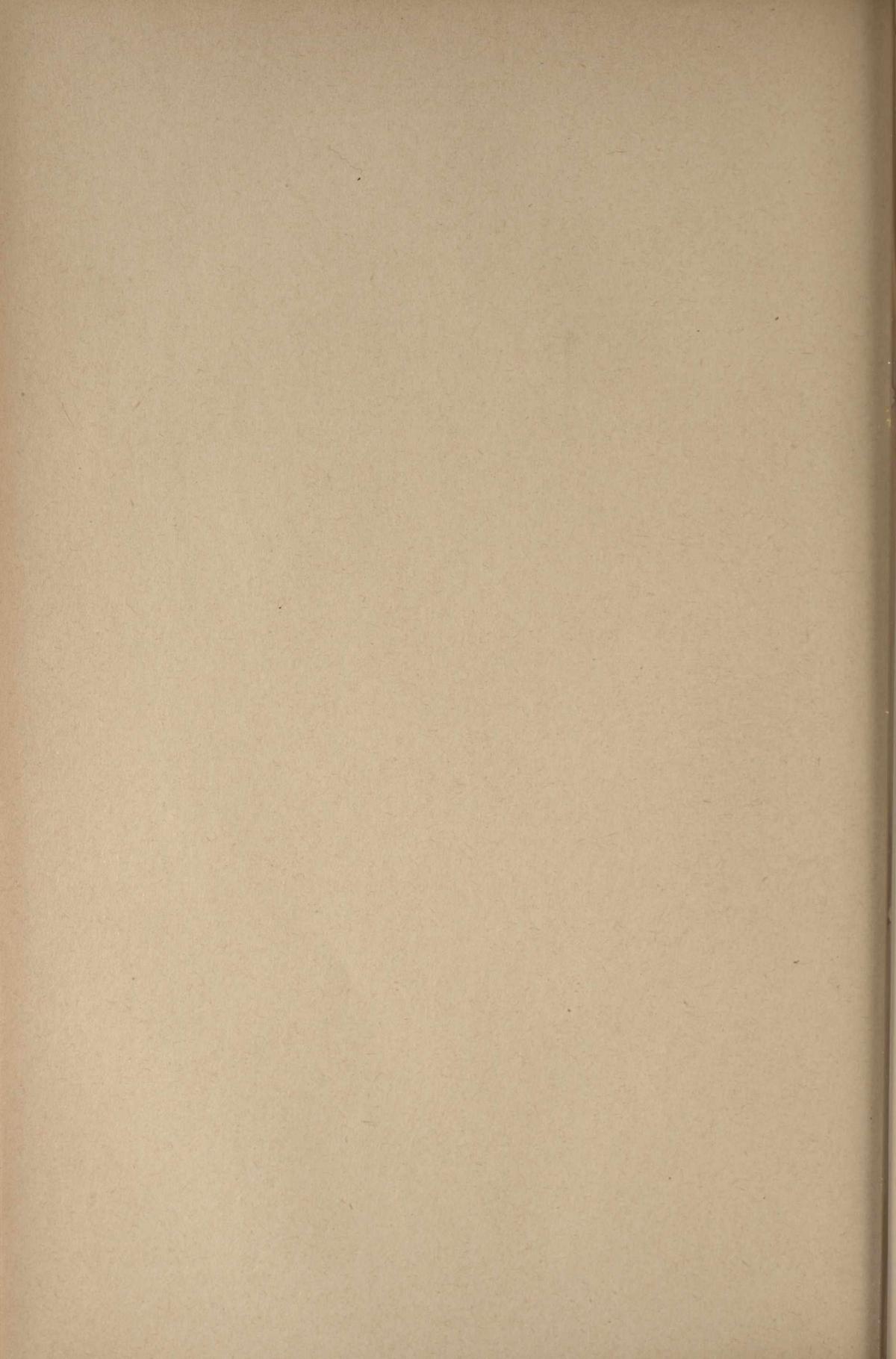
G. A. THOMPSON,

*General Manager,**Canadian Airways Limited*









THE SENATE OF CANADA



PROCEEDINGS

OF THE

STANDING COMMITTEE

ON

RAILWAYS, TELEGRAPHS AND HARBOURS

ON

BILL B

An Act to establish a Board of Transport Commissioners
for Canada, with authority in respect of transport
by railways, ships, aircraft and motor vehicles

No. 8

The Right Honourable GEORGE P. GRAHAM, P.C.,
Chairman

WITNESSES:

The Honourable C. D. Howe, P.C., M.P. Minister of Transport; Mr. W. E. Campbell, Chief Traffic Officer, Board of Railway Commissioners; Mr. E. P. Flintoft, K.C. representing the Railway Association of Canada; Mr. John P. Doherty, representing the Lake Freight Association; Mr. Bernard Allen, representing the Railway Association of Canada; Mr. G. W. Mason, K.C., Toronto.

COMMUNICATIONS:

Letter from Mr. C. J. Burchell, K.C., Halifax, N.S. (re foreign shipping treaties); Letter from Mr. A. Roy Brown, President, General Airways Limited; Letter from La Chambre de Commerce du District de Montréal.

ERRATUM:

Page 193, second last line. For "maximum" read "minimum".

THE STANDING COMMITTEE ON RAILWAYS, TELEGRAPHS AND
HARBOURS

The Rt. Hon. GEO P. GRAHAM, P.C., Chairman

The Honourable Senators

Arthurs	L'Espérance
Ballantyne	Logan
Barnard	MacArthur
Beaubien	Marcotte
Black	McDonald (<i>Shediac</i>)
Bourque	McGuire
Buchanan	McLennan
Calder	McRae
Casgrain	Meighen
Copp	Michener
Dandurand	Molloy
Dennis	Moraud
Farris	Murdock
Gillis	O'Connor
Gordon	Parent
Graham	Pope
Green	Rainville
Griesbach	Raymond
Haig	Robinson
Hardy	Sharpe
Harmer	Spence
Horner	Sutherland
Jones	Tobin
Lacasse	Turgeon
Laird	Webster—50

(Quorum 9)

MINUTES OF EVIDENCE

THE SENATE,

THURSDAY, March 4, 1937.

The Standing Committee on Railways, Telegraphs and Harbours, to whom was referred Bill B, intituled "An Act to establish a Board of Transport Commissioners for Canada, with authority in respect of transport by railways, ships, aircraft and motor vehicles," met this day at 10.30 a.m.

Right Hon. George P. Graham, Chairman.

The CHAIRMAN: Our program this morning is to give an opportunity to the Hon. Minister of Transport to discuss his Bill that we have heard other people discuss for weeks. I have great pleasure in calling on the Hon. Mr. Howe.

Hon. C. D. HOWE (Minister of Transport): Mr. Chairman and gentlemen, when, last month, I introduced this Bill to the Committee I stated it was a difficult Bill. I think that needs no further demonstration. However, I still think it is a very necessary Bill, and I must say I have found very little in the evidence you have taken which would lead me to believe that material changes should be made. Some changes are, I think, required, but I will ask my colleague, Senator Dandurand, to introduce several amendments when you are going through the Bill clause by clause.

Hon. Mr. DANDURAND: Have you prepared those amendments?

Hon. Mr. HOWE: No. I thought I would discuss them to-day, and then we could prepare them.

I think a great deal of criticism has arisen out of the misunderstanding of the application of the Railway Act, and I have asked Mr. Guthrie to have his officers prepare a statement of the actual working of the Act. There seems to be a feeling abroad that the Railway Commission fixes minimum rates. That is not true. Of course, the Commission fixes maximum rates, but very flexible machinery is provided for altering rates below the maximum.

The railways and the steamships are here ready to make their submissions as a result of the evidence taken by the Committee.

A good deal of question has been raised as to why the Bill is necessary. It seems to me we need only look at our transportation situation briefly to give an indication that this or something similar is needed. I have been looking over the records of the gross earnings of our railways. The Bureau of Statistics takes the year 1926 as a standard or 100 per cent year. Their figures for the last year indicate that the level of business for 1936 was 112·2. I notice that in his Budget speech Mr. Dunning put it somewhat higher.

Hon. Mr. GORDON: In comparison with 1936?

Hon. Mr. HOWE: Yes.

Hon. Mr. GORDON: Taking 1926 as the 100 per cent year?

Hon. Mr. HOWE: Yes.

In 1926 the gross revenue of the two railways combined was \$473,000,000; which we will take as 100 per cent on the basis of railway gross revenues. In 1928 it rose to 115 per cent; in 1933 it dropped to 55 per cent, and in this year it stands at 76·5 per cent. In other words, while general business is at 112, our railway earnings are only 76·5 per cent.

As far as lake shipping is concerned, I think all of you gentlemen are familiar with the situation. There are very few solvent shipping concerns operating on our inland waters.

Truck competition is hardly stabilized. I do not want to say anything about the condition there. I think some lines are doing well, others not so well.

In any event, unless the people of this country can reconcile themselves to paying in the neighbourhood of \$40,000,000 a year to make good the deficit for our national railway system, I think some sort of order must be brought out of the present transportation chaos.

Now, this is not new legislation. True, it is new in Canada, but most countries in the world have the same type of legislation that we are trying to introduce. Every British country has it, and the United States have it. Indeed, at the end of this year they will have even more regulation than we propose under this Bill.

I should like to read a brief statement which I have had prepared on this point:

In the United States railway regulation is the same in principle as regulation in Canada under the Railway Act.

It was instituted in the year 1887, by the passage of the Act to Regulate Commerce, principally for the purpose of preventing unjust discrimination between shippers, which, even at that early date, had become extensive, due to secret rebates whereby one trader could secure an unfair advantage over another. The Interstate Commerce Commission was constituted to administer the Act.

It should be noted, however, in addition to the Interstate Commerce Commission, a large number of the forty-eight States of the Union have Railway Commissions or Public Service Commissions, which have authority to regulate railways within the boundaries of their own States, but this authority is limited by the power of the Interstate Commerce Commission, under the Act to Regulate Commerce, to disallow any rates authorized by the individual states when such rates result in unjust discrimination against interstate traffic.

In 1906, the Act was amended to give the Commission jurisdiction over express companies, sleeping car companies and pipe lines, and also to give the Commission power to prescribe maximum reasonable rates for the future, which authority did not exist in the original Act.

The necessity for co-ordinating the regulation of different forms of transportation under one administrative body, which had proved so satisfactory in the past, further resulted in the administration of the Motor Carrier Act in 1935 being also placed under the Interstate Commerce Commission.

At the present time varying degrees of regulation apply with respect to coastwise, intercoastal and inland water carrier shipping.

Coastwise transport is under the jurisdiction of the United States Maritime Commission. Carriers are required only to file maximum rates, but can charge any rate below such maximum rate; and they do not necessarily publish or file such lower rates.

Intercoastal carriers, namely, carriers operating between ports on the Atlantic, on the one hand, and ports on the Pacific, on the other hand, through the Panama Canal, are subject to the jurisdiction of the United States Maritime Commission, but, under a separate Act of Congress, passed about a year and a half ago, are required to publish and file all of their rates, which cannot be departed from. The United States Maritime Commission has under this Act similar rate regulatory powers over intercoastal carriers as has the Interstate Commerce Commission over rail carriers.

Right Hon. Mr. MEIGHEN: Do I understand that the coastal vessels of the United States have to file their rates and cannot depart from them as filed?

Hon. Mr. HOWE: That is intercoastal, from coast to coast.

Right Hon. Mr. MEIGHEN: And cannot depart from those rates?

Hon. Mr. HOWE: Yes. When once they file a rate they cannot depart from it.

Right Hon. Mr. MEIGHEN: Of course, if they can file them fast enough they would not care about that regulation.

Hon. Mr. HOWE: But they must get those rates approved.

Right Hon. Mr. MEIGHEN: With respect to intercoastal traffic?

Hon. Mr. HOWE: Yes.

Hon. Mr. BLACK: We would not have intercoastal rates.

Right Hon. Mr. MEIGHEN: On our lakes?

Hon. Mr. BLACK: That is a different thing.

Right Hon. Mr. MEIGHEN: I thought so. I did not think such regulation would apply to shipping on the lakes.

Hon. Mr. HOWE: No. I am coming to lake rates.

Transport carriers on inland waters, namely, the Great Lakes, Mississippi river, etc., are not at present required to publish or file their rates with any commission.

The Interstate Commerce Commission to-day has control over coastwise, intercoastal and inland water shipping where joint through rates are made with any railway. Thus, water transport in the United States is at present partially under regulation. There is now before the Congress of the United States a bill which will give the Interstate Commerce Commission entire control over coastwise, intercoastal and inland water carriers, in substantially the same manner as under the present Interstate Commerce Act governing railways. This bill has been introduced by the Chairman of the Senate Committee on Interstate Commerce, and its purpose is to give effect to certain recommendations of the former Federal Co-ordinator of Transportation; thus placing all regulatory powers under the jurisdiction of one body, namely, the Interstate Commerce Commission. This will remedy the chaotic conditions now existing in the United States. In other words, if that bill passes—and it is a Government measure as they have it over there, which is introduced by the Chairman of the Committee responsible for the Interstate Commerce Commission—they will have the same regulation for shipping on the Great Lakes that we propose under this bill.

Regulation of rates for aircraft: United States.—The only rate control exercised is by the Interstate Commerce Commission, who have power to fix the rates to be paid for air mail services. No control so far is exercised over passenger or freight rates.

Great Britain.—Under section 5 of the Air Navigation Act, 1936, His Majesty may, by Order in Council, make provision for the complete control of aircraft while carrying passengers or goods for hire or reward. Such aircraft may only operate in accordance with the licence granted to the operator by the licensing authority specified in the Order in Council.

His Majesty may, by Order in Council, prescribe the conditions which may be attached to such a licence, including conditions as to the fares, freights or other charges to be charged by the holder of the licence, and for securing compliance with any conditions so attached.

Regulation of highway transport: United States.—The Motor Carrier Act, 1935, empowers the Interstate Commerce Commission to control all interstate and foreign commerce by motor vehicles, except private passenger vehicles, the issue of certificates of public convenience and necessity upon hearing for common carriers, issue of permits based on the public interest for contract carriers and the making of safety regulations, including standards of equipment, hours of labour, accounts and records for common, contract and private carriers. In addition, common carriers are subject to similar regulation as to rates as are contained in this Bill. Contract carriers must file contracts with the Commission subject to the right of the Commission on its own motion or on complaint to fix minimum rates, or suspend such contract.

They have gone further than we propose in this Bill, in that they have the right to fix minimum rates.

Great Britain.—Under existing legislation in Great Britain public passenger vehicles and freight vehicles, whether operated for hire or privately, are required to obtain licences based on substantially similar requirements as are contained in this Bill. The rates of fare charged by public passenger vehicles are subject to control, but as yet, although there is some outcry for it, no rate regulation exists as to freight vehicles. The licensing bodies are required to take into consideration substantially similar matters as are contained in schedule 29 of this Bill and their decisions are subject to appeal on questions of law and fact.

Northern Ireland.—The Road and Railway Transport Act in Northern Ireland sets up a Road Transport Board consisting of from five to seven members which is required within a prescribed period to acquire every road motor undertaking operated for hire or reward in Northern Ireland and thus sets up a monopoly of all road transport. It is the duty of the Board to effect proper co-ordination of these road services with other forms of transport. The railways are empowered to invest in the stock of this Board and thus have an interest in its operations. An appeal tribunal has been set up with power to prevent discrimination and undue preferences. Rates, fares and charges are to be published by the Board. Unnecessary or wasteful services are prohibited, it being the duty of both the Board and the railways to secure co-ordination. This is accomplished through a standard joint committee of three appointed by the Board and three appointed by the railway companies. Broad provision is made for pooling rail and highway traffic.

Irish Free State.—In the Irish Free State there is provision for compulsory acquisition by the railways of all road undertakings. Classifications and schedules of charges must be submitted to the rail tribunal, which is empowered to hear the parties and determine classification and settle the schedule of charges. Both must be published.

Union of South Africa.—The Motor Carrier Transportation Act places the control for hire of passenger and goods vehicles in proclaimed areas and on proclaimed roads under the Central Board. Licences are required for all such vehicles and the Board must give consideration to substantially the same matters as are contained in section 29 of this Bill. A scale of charges must be filed by the applicant and the reasonableness of these charges is an additional matter which the Board must consider on the application.

New Zealand.—The licensing boards under the Transport Licensing Act have very much broader powers than are given to the Board of Transport under this Bill.

Hon. Mr. DANDURAND: Of course our situation is not exactly the same.

Right Hon. Mr. MEIGHEN: You can eliminate New Zealand, South Africa, Northern Ireland and the Free State, because their legislation is paralleled by our provincial legislation.

Hon. Mr. HOWE: No. Provincial legislation does not determine rates.

Right Hon. Mr. MEIGHEN: Determine rates at all?

Hon. Mr. HOWE: No.

Right Hon. Mr. MEIGHEN: What I mean is this, that their powers there, within their limits, are paralleled by the powers of our provinces within their limits. If the provinces wished to do so they could.

Hon. Mr. HOWE: Quite.

Right Hon. Mr. MEIGHEN: Our disability is due to the fact that the area to be covered by the federal Bill is so small on account of the size of our provinces and our federal constitution that it is a question if it is worth while invading it.

Hon. Mr. HOWE: I do not think we are invading it.

Right Hon. Mr. MEIGHEN: I do not mean invading provincial territory, but occupying our own.

Hon. Mr. HOWE: In the United States three of the states have passed legislation exactly similar to the federal Bill.

Right Hon. Mr. MEIGHEN: But even there they are different. I am not certain when I say that I think the interpretation of state rights is somewhat different from the interpretation of our provincial rights and is more liberal to the federal authorities. I speak subject to correction. But they have 49 states, and they are relatively small and the interstate traffic is immense.

Hon. Mr. HOWE: Quite.

Right Hon. Mr. MEIGHEN: In fact, the general bulk of the traffic is interstate, but here the great mass is intra-provincial.

Hon. Mr. HOWE: As I said, we do not place any emphasis on that, and certainly would not proclaim it without the consent of the provinces affected. We could not possibly set up machinery to do it, but when you are setting up machinery I do not think you should leave out entirely provision—

Right Hon. Mr. MEIGHEN: It might be well to put that in. But next, you say you do not propose minimum rates in intercoastal lake traffic.

Hon. Mr. HOWE: I think I will ask the Chairman of the Board of Railway Commissioners to say just what the Act means.

Right Hon. Mr. MEIGHEN: If you do not do that how do you conceive that you are going to help the railways?

Hon. Mr. HOWE: We are not trying to help the railways. We are trying to get order.

Right Hon. Mr. MEIGHEN: But you said that unless we are prepared to have \$40,000,000 loss we have to do something.

Hon. Mr. HOWE: We are trying to put transport on a stable basis. Much of the competition on the lakes is with bankrupt tonnage.

Right Hon. Mr. MEIGHEN: I see the difficulties all right, but unless you fix minimum rates the primary object you mention can never be approached.

Hon. Mr. HOWE: We think the publicity as applied to the railways will be very valuable. However, I have a statement on the Bill. Perhaps I could read that; then I will ask the Chairman of the Railway Board to give a little outline of how the Railway Act does apply. He can do it much better than I can.

The object of this Bill is to obtain the stabilization of the transportation industry in Canada in the public interest as well as in the interests of all those engaged in transportation. It is hoped that this Bill will lay the foundation for a co-ordinated system of transport in Canada from which will be absent the abuses and evils now so apparent.

It should be made clear from the first that there is no intent to limit the development on sound economic lines of any form of transport, in favour of any other. All progress in transportation has necessarily been accompanied by some loss of business by older forms of transport, and it may be that this process has not yet been completed. There are, however, certain fundamental considerations which must be kept in mind.

In the first place, it is essential that there should be an economically sound railway service, since for climatic and geographic reasons it is impossible that without this we could conduct the business of the nation.

In the second place, it is essential that the great inland waterway provided by nature should be served by transportation agencies conducted on a sound

economic basis, for without this, Canada would lose one of the facilities which make it possible for our Western farmers to compete economically in the markets of the world.

In the third place, it is absolutely essential that there should be some relation between the transportation charges in Canada and the ability of various commodities to stand those charges.

The fourth question of the public interest is the necessity of all, or the major terms of transportation rates, being both public and reasonably stable. Publicity is essential to prevent discrimination.

A fifth point is the question of the conditions of employment in transportation industries. It will not be questioned that it is the duty and interest of all employers in Canada to endeavour to maintain reasonable standards of conditions and rewards of employment of Canadian workers. In the absence of regulation there is produced intense and uneconomic competition which must inevitably bear very heavily on the workers engaged in the industry, since labour costs are such a large proportion of operating expense. There is ample evidence that in certain branches of transport which are not now subject to adequate regulation such a condition exists and reflects itself in unreasonably long hours at low wage standards. Apart from the effect on labour, the interest of public safety is also involved.

The intent of the Bill is to create a reasonable extension of the policing powers of the State entirely in the public interest.

The objections, which have been made to this Bill have not in the main been directed to the undesirability of regulation as such, but to the means provided by the Bill.

The objections to regulation itself are in turn mostly, if not entirely, devoted to statements that the regulation proposed is not practicable in certain instances.

The Maritime Provinces and many of the other interests who appeared before the Senate Committee have objected to the Bill on the ground that rates would be increased. It is submitted that there has not been, as a result of the rate regulation of the railways, any tendency to increase rates; the fact is that the tendency is to stabilize them. There is sometimes a misconception to the effect that the Canadian railways are at all times endeavouring to increase their rates. The fact is that Canadian railway rates as established under regulation are among the lowest in the world. This has been accomplished notwithstanding the fact that Canada is a sparsely populated country. To some extent the misconception arises from the belief that railway rates, under regulation, are fixed by the Board of Railway Commissioners and not by the railway companies.

That this misconception is general cannot be denied. An important Canadian journal, in discussing this Bill, has stated that Canadians have made it plain that they do not "want to live under an economy in which the rates and conditions of every kind of transportation are rightly prescribed by governmental authority." The same idea has been expressed in the columns of other Canadian journals, and has clearly influenced the statements of some of our economists. Some of the objectors who have come before this Committee have shown quite clearly that they hold the same view.

That is not the purpose of this Bill. The intent is merely to extend to other forms of transportation regulation similar to that which has been applied to the railways under the Railway Act. That regulation is not properly described as a "rigid prescribing of rates."

It is merely a policing of the methods of rate fixing used by the transportation companies themselves, so as to substitute order for chaos, and particularly

for the elimination of unjust discrimination. It is true that, under the Railway Act, and under this Bill, power is conferred on the regulating authority to establish rates where this is necessary, but let it be made clear that this power is never exercised except upon complaint or to remedy an obvious abuse.

In the same journal from which these words are taken, it is then suggested that regulation is permissible "to prevent discrimination between one shipper or passenger and another shipper or passenger." This is precisely the purpose in mind in the extension of regulation such as is practised under the Railway Act to other forms of transport.

It may be assumed that under this Bill the railway and all other forms of transport will continue their efforts to keep rates at the economically sound minimum and that the Board of Transport will, as has been the case with the Board of Railway Commissioners, not take steps to change that policy.

Rate regulation is intended to foster stabilization in the industry and economically sound conditions in transport and commerce in general and, in addition, to create this stability without unjust discrimination and by means of published rates.

On the other hand, individual carriers may fear that rate regulation will result in the establishment of uneconomically low rates, as the result of the Board of Transport forcing carriers to adopt the lowest rate published by an improvident competitor. The Bill provides ample remedies for such a condition, and there need be no fear that under it, carriers will find themselves forced to furnish services at rates which cannot be economically justified.

Discussing Part II of the Bill, representatives of the grain trade and certain of the shipping interests on the lakes argued that if Canadian vessels carrying grain and other bulk commodities were subjected to regulation, the competition of both Canadian and American vessels for the traffic via Buffalo and New York to foreign markets would be unfair and would divert from the St. Lawrence route a large proportion of the traffic now moving via that route. In this connection it might be pointed out that there is now power in the Bill to proclaim it with respect to vessels of Canadian registry moving to foreign ports. The objectors should place some trust in the Minister, and regard it as inconceivable that he should use such power to hamper the Canadian shipping industry in its efforts to meet competition.

It might also be pointed out that there is now before the Congress of the United States a Bill which will enable the Interstate Commerce Commission to control American shipping to and from foreign ports. This Bill was introduced by the Chairman of the Senate Committee on Interstate Commerce, and is intended to give effect to certain recommendations of the former Federal Co-ordinator of transportation. The passage of this Bill would add to the facility with which complete regulation could be obtained.

Another of the general objections to regulation so far as it affects bulk commodities and in particular grain is that the cost of transportation, constituting as it does such an important part in the marketing of these commodities, must be subject to flexibility so as to meet rapidly changing conditions. It would seem that this is an objection which has no real substance, for the reason that it is a well known fact that the first stage of the transport of our Western grain to the markets (by rail) is subject to control and stabilization of rates. It is also a fact that the rates for the ocean haul are stable.

I notice that our friends the Shipping Federation came up to protest that the lakes must be free. I would say that under the Freight Rate Conference and under the Atlantic Steamship Conference rates are fixed both as to maximum and minimum, and in every way. You would think, at least, that if the lakes should be free the ocean should also be free.

This objection, therefore, involves the unreasonable suggestion that it is impossible to make what is a small proportion of the total transportation services subject to rate stability.

It has been suggested that powers are given to the Minister to impose arbitrary restriction or onerous conditions on steamship operators, by restricting the number of ports at which they may call, or by forcing them to extend unremunerative services to ports at the Minister's will.

It is the intent of the Bill to provide all powers necessary for regulation of inland water traffic, but it is clearly intended that steamship operators might be licensed to cover, say, the Great Lakes and St. Lawrence waters, or some general portion thereof. There are quite obviously some classes of vessels that come within the regulation proposed in the Bill which, by the very nature of their operations, could not be subjected to specific restrictions of route and schedule possible under subsection 4 of section 5. The powers given by this section, it must be clear, are permissive, and it should be assumed that the Minister will, in employing them have due regard to the different conditions which affect the different classes of vessels to be licensed.

There has been considerable discussion concerning the geographical limits of application of this part of the Bill. After giving careful consideration to this subject, it has been decided that a clear statement can be made on this point.

An amendment will be submitted which will restrict Part II of the Bill to the following:—

- Port to port traffic in waters, Father Point and west;
- Traffic between St. Lawrence and Maritime ports, Father Point and east and all ports on inland waters west of Father Point;
- Traffic between ports Fort William-Port Arthur and east on the one hand and ports on the Pacific coast of Canada on the other hand.

I may say there is some doubt whether that last should be left in the Bill or not. But it is in the American Bill, and I am inclined to think it should stay in this one, although I think it will be some time before there is any reason for proclaiming it.

It is intended to exclude from the provisions of the Bill, coastwise port to port traffic between Gulf and Atlantic ports in Canada, east of Father Point and coastwise port to port traffic between Pacific coast ports in Canada.

It must be obvious that the suggestion, that water transport between the Maritime Provinces and points on the upper St. Lawrence and the Great Lakes should be free of regulation, cannot be accepted. To take a tangible case: there are sugar refineries at Maritime points which compete, in central and Western Canada, with refineries at Montreal, Chatham, and Wallaceburg. If one group of refineries is to have its transportation unregulated, it is obvious that unjust discrimination might result. The same thing is true of steel and many other products.

The suggestion has been advanced that, under the Commonwealth Agreement, British ships may engage in Canadian coastwise transport. This is accepted by the Government, but raises no objection to this Bill. British ships may only engage in Canadian coastwise trade on equal terms with Canadian craft. British ships desiring to take advantage of the Commonwealth Agreement must accept regulation under this Bill—this involves no departure in principle or in detail, from the Commonwealth Agreement.

As to Part III of this Bill, it is not the intention at the present time to make rate regulation apply in the case of irregular services in northern Canada, such as those in the mining areas.

I might say that the regulation of aircraft is intended to apply to scheduled services between cities. It will only be applied to the northern flying, which is non-competitive except with its own industry, when the industry itself asks us to apply it. We have no intention at the moment of going into that field at all.

Turning now to Part IV of this Bill, one of the main objections of the provinces and of the highway interests to regulation by the Dominion is that

the Bill provides for a licence fee and that this power can be used to invade the field which the provinces look upon as their own, namely, the right to obtain from the users of the highways the revenue which is available through taxation, and this action is regarded by highway carriers as an attempt to increase their financial burden through added taxation. It is not the intention of the Dominion to use its powers under the Bill as a source of revenue. It should be made clear that the fees contemplated are merely nominal registration fees.

Another more general objection on the part of the provinces had to do with the question as to whether the definition of interprovincial and foreign trade so far as it may include a purely intra-provincial movement as part of a through movement, is constitutional. Possibly some of the objection has been induced by an interpretation that changes of ownership and warehousing en route would not avoid the consequence that a prior portion of the total movement would still be subject to regulation under the Bill. To avoid this complication it should be made clear that the movement to be covered should be a thorough and substantially continuous one.

The importance of extending the definition to cover the entire movement is that otherwise evasions of the Act would be very common and exceptionally easy. Switching of trailers or actual transshipment of the load itself could be arranged at the provincial or international borders, and the consequences of limiting the regulation to the actual crossing of the borders would be fatal to the effectiveness of the Bill.

Another general objection by substantially all those who have appeared in opposition before the Senate Committee has been based on the fear that the Board, being centralized in Ottawa, would find itself unable to cope expeditiously with the new duties which would be placed upon it. It seems the view of these objectors is that the delays which would occur would disrupt the business of transport. The answer to this is that the Board has for many years not only supervised matters connected with the railways, but has also had functions related to other public utilities and the relationship between them and municipal corporations. To do this work it has had to travel from one part of the country to another and the Board has seldom, if ever, gone as a full Board. There would seem to be no real reason to doubt the ability of the Board to move about as it has done in the past, and it would seem quite easy to depute one or two members of the Board, where necessary, to visit different portions of the country. It may be supposed that the Board would be able to arrange its affairs from time to time as might appear necessary for the conduct of its business.

The CHAIRMAN: I do not see anything in that objection at all. I pointed out the other day that the same objection had been raised originally with respect to the railways, and I assume it was met by the adoption of the system by which the Board can divide itself up so as to be able to go to two parts of the country, perhaps more, at the same time.

Hon. Mr. Howe: The objection has taken a peculiar form in that an attempt has been made to magnify the duties which the Board might have to perform under the "Highway" and "Agreed Charges" sections. For example, the suggestion was made that the Board would have to deal with the licensing of approximately 170,000 trucks and that, similarly, it would have to deal with applications for agreed charges by all of those as well as the other forms of transport. Against this may be taken the statement by Mr. Paton, representing the Canadian Automotive Transportation Association, who said that probably not over 370 vehicles are engaged in traffic over which the Dominion would, under this Bill, have control.

On the other hand, the objection by others appearing, suggested that owing to the small amount of traffic that would be involved under the highway section

it would not be proper for the Dominion to concern itself. The real fact is that the duties devolving upon the Board would be comparatively small in the first instance, but it is obvious that the proper time to set up machinery for regulation is during the infancy of the problem.

There is very little to say with reference to Part VI of the Bill which deals with "Agreed Charges." An amendment will be offered that will deal with the situation created by the Maritime Freight Rates Act. You will hear from witnesses some further explanation of the working of similar legislation in England. However we must not lose sight of the real object of such a provision. It is designed to give those carriers who are to be subject to regulation, if this Bill becomes law, the right to make contracts, a right which those who are not subject to the Bill already enjoy and which those agencies objecting to it now possess. It perhaps has not been realized by the transport agencies who are objecting that if this provision were eliminated and they became otherwise subject to the tariff provisions of the Railway Act, they would lose this right.

The question of constitutional powers has been raised by many objectors. This is a matter upon which the Committee will no doubt be guided by the advice of the law officers of the Crown.

While it is not intended to go into this argument at this moment, the assertion can safely be made that, were every contention on the other side admitted, there would still remain a field of action in which the Dominion has unquestioned power, and the Dominion cannot idly sit by, and fail to provide adequate machinery for performing those duties which rest upon it.

To sum up, it is submitted that the objections raised to the passage of this Bill are based chiefly on misconceptions of the results which might arise from the application of regulation to all forms of transport. The same objections were raised many years ago to the application of similar regulation to railway transport. Long experience has proved that fears then expressed were groundless. It has not been the case that, in Canada, any burdensome public machinery has been set up. It is not the case that reasonable liberty of action has been taken from those engaged in transport service. It is not the case that regulation has been used either to force rates to uneconomically low levels or to permit them to be set unduly high in the interest of the carrier.

All that regulation in connection with railways has meant in Canada has been the substitution of order and stability for the condition of chaos and discrimination which once existed. It is suggested that the extension of methods of regulation of the same type to other forms of transport is a mere acceptance of the demands of progress, and that it will be in the interest of those who perform transport services, of those who employ them, and of the nation in general.

The CHAIRMAN: Is that amen?

Hon. Mr. HOWE: Amen.

Hon. Mr. BLACK: Coastwise shipping is exempt from the provisions of the Bill.

Hon. Mr. HOWE: I am suggesting that as an amendment.

Hon. Mr. BLACK: Yes. Shipping which is not purely coastwise, say from Saint John or Halifax to Montreal, comes under the regulation of the Bill?

Hon. Mr. HOWE: That is right.

Hon. Mr. BLACK: You mentioned the case of the sugar refineries. Suppose a Swedish tramp steamer comes along and the Acadia Refinery have a carload of sugar to ship to Montreal. That tramp wants cargo and—

Hon. Mr. HOWE: That tramp could not take that cargo to-day. It is not allowed to move between two ports in Canada.

Hon. Mr. BLACK: Very well. Suppose a British or Australian ship, or any other ship under British registry. It would be prepared to take that cargo at two-thirds the normal rate in order to get freight on the way up. That could not be done without communicating with the Transport Commission?

Hon. Mr. HOWE: In order to make that perfectly clear, I think we should have a statement either from Mr. Guthrie or his freight traffic officer, setting out how the regulation of the Railway Board does apply. Would that be agreeable to you, Mr. Chairman?

The CHAIRMAN: Yes.

Hon. Mr. GUTHRIE: We have prepared a summary—

Hon. Mr. GRIESBACH: Before Mr. Guthrie gets launched on his statement, I should like to ask Mr. Howe this question. If lake shipping business is in the bankrupt condition that he suggests, will not control of rates to cure that condition inevitably result in increased rates on the transport of grain?

Hon. Mr. HOWE: What are the rates on grain to-day? They vary from 6 and 6½ cents down to, I think, 3 cents. I think some freight was taken at that low rate last year. Regulation will tend to stabilize rates, I think, but whether the general result will be to raise or lower rates, I cannot say.

Hon. Mr. GRIESBACH: If you are going to cure the condition of bankruptcy to-day, will not the inevitable result be to increase the ultimate carriage rates on grain on the Great Lakes?

Hon. Mr. HOWE: I do not know whether I would admit or deny that that will be the result; but I think you will agree that a condition of bankruptcy is not a permanent condition. It is going to be followed by a condition which will create an artificial scarcity. In fact it was stated that there was a scheme to lay off half the tonnage. That would result in a scarcity of tonnage and higher rates.

Right Hon. Mr. MEIGHEN: Probably what I am going to ask you, Mr. Howe, will be answered by Mr. Guthrie. I was pretty young when the Railway Commission was established, and I guess you were younger.

Hon. Mr. HOWE: Yes.

Right Hon. Mr. MEIGHEN: I cannot see that the parallel underlying your brief of the reasons for that act and the working out of that control is a sound parallel or can apply. The railways are a natural, necessary and inevitable monopoly, and the reason for the control as put in at that time was to regulate that monopoly more efficiently than it had been regulated in the past in the interests of the public and the carrying trade. Regulation was not imposed as a means of stabilizing rates for the benefit of the railways. That should be kept in mind. It was imposed as a means of preventing discrimination and unduly high charges and for the protection of the public generally—always essential where there is a natural monopoly.

Now you seek to apply that principle to the lakes. You say chaos exists there because there is bankruptcy of this company and that. No doubt there is. But the point of view is wholly different. The parallel does not exist. The public is not asking to be relieved of discrimination and for some improvement in this chaotic condition. The public is fully satisfied, so far as these low rates and the consequences are concerned. And there is no natural monopoly. It is just because there is no natural monopoly that we have this condition; competition is so desperately keen that the shipping companies cannot live. That distinction as between the lake carriers and the railways is most emphatic. There is also that distinction, though perhaps in a lesser degree, between the air carriers and the railways. The air carriers can hardly be a natural monopoly; they might perhaps approach nearer to it than the lake carriers. Similarly with the motor-truck carriers. In a word, the condition you are trying to correct is the very reverse of the condition which was cured by the Railway Act.

Hon. Mr. HOWE: What is your regulating factor to-day in all this business? Your regulating factor is the railways, is it not?

Right Hon. Mr. MEIGHEN: I would not say that.

Hon. Mr. HOWE: Absolutely. When you tear up a branch line what is the objection always raised before the Railway Board? It is this: You are leaving us to the mercy of the trucks. That is always the cry.

Right Hon. Mr. MEIGHEN: There can be more than one truck.

Hon. Mr. HOWE: Yes, I know, but the people say, "You are leaving us to the mercy of the trucks." In other words, you expect the railways to stay there as the great regulator of everything. They are prepared to carry on business at a certain price. You say, "If these people charge you too much you can always go to the railways." I think it is an impossible position.

Right Hon. Mr. MEIGHEN: I am inclined to agree with you, but it does not answer my point as to the feasibility of the remedy. I agree with you as to the unfairness of the position, but I am arguing on the principle that the remedy applicable to one state of affairs is just the remedy that cannot be applied to a wholly different state of affairs.

Hon. Mr. HOWE: Take the railways out of this trucking picture, and where would the rates go? Would you care to say that there would be no discrimination? It is a fact that railway rates are based on the principle of no discrimination, and in my view the other forms of transportation competition should be also regulated.

Right Hon. Mr. MEIGHEN: That is a case of unfairness without a doubt, but I am arguing not on the unfairness, but on the applicability of the remedy proposed.

Hon. Mr. HOWE: Take the lake rates situation. They fluctuate, as you know. We passed a law to control maximum rates so they should not go too high.

Right Hon. Mr. MEIGHEN: We did not succeed.

Hon. Mr. HOWE: Oh, yes.

Right Hon. Mr. MEIGHEN: In 1923? No, we got into an awful mess.

Hon. Mr. HOWE: The Grain Act was amended.

Right Hon. Mr. MEIGHEN: Yes, but we had to abandon the amendment.

Hon. Mr. HOWE: I think the time to regulate lake carriers is when you have a condition of surplus tonnage.

Right Hon. Mr. MEIGHEN: I do not want to pursue the subject further.

Hon. Mr. HOWE: But don't you think that is the answer? You depend on another agency entirely to regulate rates to-day. I can show you a file of rates from people advocating truck regulation. They say, "We don't know at what rate our competitor is shipping."

Right Hon. Mr. MEIGHEN: And the answer we get is that the provinces control trucking rates to-day even on interprovincial traffic. You say they do not regulate rates.

Hon. Mr. HOWE: Yes.

Right Hon. Mr. MEIGHEN: But as a matter of fact the provincial Governments do pretty well control rates in this way. They decide what bus shall run between certain points. One may say that that bus line is compelled to give service at fair rates, or it loses its franchise. So that is pretty effective control of rates, though it is not direct.

The CHAIRMAN: Now, shall we hear the Chairman of the Railway Commission?

Hon. HUGH GUTHRIE (Chief Commissioner, Board of Railway Commissioners): Mr. Chairman, we were asked by the Transport Department to look into the question of passenger tariffs and tolls and the regulation thereof, and to explain in a brief memorandum the present provisions as they apply to the railways.

I am going to ask Mr. Campbell, the Chief Traffic Officer of the Board, to read this memorandum. Of course, he will be prepared to answer any questions as he proceeds which you may see fit to ask him. He has been the Chief Traffic Officer of the Board for a good many years now and is thoroughly familiar with every branch of the subject.

Mr. W. E. CAMPBELL, Chief Traffic Officer, Board of Railway Commissioners for Canada: This is a statement of the Board of Railway Commissioners with respect to the rate regulation of railways subject to the Railway Act.

There appears to be apprehension on the part of witnesses appearing before the Senate Committee in respect to Bill "B", and representing carriers by water, air and highways, that the provisions of the Railway Act with regard to tariffs and tolls would be onerous and unworkable when applied to other forms of transportation. There also appears to be a misunderstanding, on their part, by an assumption that the Board itself fixes all rates charged by railways and the fear that their rates would be fixed by the Board without any flexibility or freedom of action remaining in their own hands to deal with their own rates. These apprehensions and fears are entirely groundless and, no doubt, due to unfamiliarity with the provisions of the Railway Act.

It should be emphasized that the Board does not initiate rates and will not prescribe the first, or initial, rates or charges filed by the carriers referred to. They will file their rates with the Board and, thereafter, the Board may, upon complaint or upon its own initiative, require changes in rates which it finds to be unlawful, discriminatory or unreasonable.

Rate regulation, as administered by the Board, has been simple and easy to follow, both as to the issuance of tariffs and the making of subsequent changes in the rates shown therein. A number of the sections of the Railway Act dealing with traffic, tolls and tariffs cover ordinary and necessary provisions for the receipt and delivery of freight, anti-discrimination provisions against undue preference or prejudice in rates, provisions for a freight classification, regulating the size and form of tariffs, the posting of tariffs for the inspection of the public, etc.

The only tariffs which, upon being filed, require specific approval by the Board in the first instance are the standard freight or passenger mileage tariffs (Sections 330 and 334). These are merely tariffs of maximum rates, beyond which the carrier cannot go. They must be approved by the Board and published in the Canada Gazette before they become effective. These tariffs remain unchanged for a great many years, unless there is a very material advance or decrease in the cost of transportation. The standard tariffs of the railways have not been changed since 1922, except in the territory covered by the Maritime Freight Rates Act, effective July 1st, 1927. A very small percentage of the traffic of the railways moves under standard tariffs.

The bulk of the freight traffic, approximately 90 per cent of it, moves under special or competitive tariffs governed by Sections 328 to 332 of the Railway Act. The carriers themselves, not the Board, decide upon what rates they will publish in these tariffs and, having done so, publish and file them with the Board. Special tariffs may be made effective upon three days' notice in the case of reductions in rates and thirty days' notice in the case of advances. Further, under Section 344 and regulations issued by the Board pursuant thereto, the carriers may issue special rate notices, to become effective immediately, to provide for the prompt shipment of any freight which may unexpectedly offer and for which no suitable tariffs have been prepared, on condition that

the filing and publication of such tariffs be immediately proceeded with, except where the special rate notice has been issued to cover an individual consignment and the rate is not of a permanent character. With regard to competitive rates, which means rates to or from points as to which two or more transportation lines compete for the movement of traffic, these may, where it is necessary to meet the exigencies of competition, be brought into immediate effect without previous notice to the Board and may be acted upon before filing with the Board, but the company must forthwith file a tariff containing such rates together with a statement of the nature of the exigency and the ground for so acting (see Section 332).

The provisions of the Act with respect to the issuance of standard and special passenger tariffs are substantially the same as those governing freight tariffs.

Section 325 of the Act provides that the Board may disallow any tariff, or any portion thereof, which it considers to be unjust or unreasonable, or contrary to any of the provisions of the Act, and may require the company, within a prescribed time, to substitute a tariff satisfactory to the Board in lieu thereof, or may prescribe other tolls in lieu of the tolls so disallowed. The Board may designate the date on which any tariff shall come into force and, either on application or of its own motion, may, pending investigation or for any reason, postpone the effective date thereof, or, either before or after it comes into effect, suspend any tariff or any portion thereof.

There are many thousands of special and competitive tariffs, or supplements to them, filed with the Board each year because of the changes necessitated by the establishment of new industries, new products, new sources of supply, new forms of competition, and a variety of other reasons, so that the rate structure is in a constant state of evolution in order to meet the needs of commerce. The provisions of the Railway Act and the regulations issued by the Board thereunder with respect to the publication and filing of tariffs are not cumbersome, but, in fact, are designed to facilitate the adjustment of rates to meet changing conditions in the flow of the commerce of the country. In connection with not more than one per cent of these tariff schedules is there any complaint made to the Board with respect to the level of the rates or discrimination in them, or where the Board finds it necessary of its own motion to direct a change therein. These special and competitive tariffs may be printed or mimeographed and, in some cases, are merely typewritten, so that there is no particular difficulty or undue cost in issuing such tariffs, and the Board has issued regulations stipulating the size thereof and other rules governing their preparation and contents.

The Act requires (Section 322) that a freight classification shall be filed with and approved by the Board, such classification dividing the commodities into classes, thus making the classification complementary to tariffs publishing class rates. Some of the steamship lines have already adopted the freight classification as approved for the railways and are parties thereto. So far as bulk freighters are concerned, they would need no classification as their tariffs would be issued to cover only specific commodities. In connection with the carriers of freight on the highways, we understand there are some classifications already in effect, having been promulgated by the truckers themselves, and there should be no difficulty in all of the trucking companies agreeing upon and adopting a uniform classification appropriate to their service.

The CHAIRMAN: Gentlemen, do you wish to ask Mr. Campbell any questions?

Hon. Mr. BLACK: I still want to get back to the question I have in mind, and which I should like to have cleared up. I am quite satisfied with the elimination of coastwise shipping. I do not think that is workable under any

control. But a tramp comes to Saint John or Halifax—a Norwegian tramp, as I said, because Norway claims the right to do coastwise trading in Canada—and discharges her cargo and wants to go up through the lakes, if she can get a favourable rate, to secure a cargo of grain. The Atlantic refinery or the Acadia refinery wants to send a cargo of sugar to the head of the lakes. If that vessel first has to get in touch with the Railway Board and secure permission to make a low rate, that is a requirement in restraint of trade, and it may prevent either of those refineries from getting a very favourable rate. On the other hand, if the vessel gives a rate to the head of the lakes, trade flows along in the ordinary way in which it should. Now, how are you going to regulate a situation of that kind, which frequently occurs, without practically stopping the trade? You cannot possibly issue a standard rate for tramp steamers. I mean the random carrier that we call a tramp.

Mr. CAMPBELL: I pointed out that to meet competition or something of that kind a carrier has a right under the Act to make a rate effective immediately, and then file it with the Board and subsequently give reason for its publication.

Hon. Mr. BLACK: The tramp says it will give a rate of so much a ton.

Right Hon. Mr. MEIGHEN: It means that we regulate by not regulating at all.

Hon. Mr. BLACK: I do not see what else you can do. I must make a contract with the man and then advise the Board.

Hon. Mr. HOWE: There is no such thing to-day as the British tramp you talk about which goes around with no regulation at all. The British tramp is governed by minimum rates and maximum rates fixed by its own association. If it observes those rates it gets a subsidy; if it does not observe them it does not get the subsidy. This idea that tramps sail around the oceans taking freight at any rate they can get is a bit of . . .

Hon. Mr. BLACK: Within that agreement there is leeway whereby they can pick up a cargo and, in continuing the journey, have discriminatory power.

Hon. Mr. HOWE: They are so thoroughly regulated now that I do not think a little more will break their backs.

The CHAIRMAN: I have here a letter signed by Mr. Burchell, who appeared before the Committee the other day. I am just going to point out that we seem to have come to an agreement about the Swedish shipping. Mr. Burchell, Dr. Skelton and Mr. O'Connor seem to have been saying the same thing of the Swedish vessels but in different words.

Hon. Mr. DANDURAND: Norwegian vessels.

The LAW CLERK: Mr. Burchell gave what the lawyers call a sidewalk opinion. He said he thought there was no such treaty. Mr. Skelton wrote that there was none, and Mr. Burchell says if that be so there is no such tramp as was discussed the other day.

I would ask, Mr. Chairman, to make the record complete that the Committee direct that Mr. Burchell's letter go on the record.

Hon. Mr. BLACK: That does not affect the British tramp situation.

The LAW CLERK: No. The question of the British tramp is still a live one. I gather the only answer there is has been given. I think the rate must go into effect; it must be accomplished, and then the steamship owner or captain advise the Commission. I do not see how you can remedy that unless you seize the ship.

The CHAIRMAN: We will come back to that, probably. The Department has a submission to make.

Hon. Mr. HOWE: The railways, I think, want to make a statement on it too. I think Mr. Flintoft has something.

The CHAIRMAN: Shall we hear the railways?

Right Hon. Mr. MEIGHEN: I should like to hear them.

Some Hon. SENATORS: Hear, hear.

Mr. E. P. FLINTOFT, K.C., General Counsel of the Canadian Pacific Railway: Mr. Chairman, in appearing on behalf of the Railway Association of Canada, I have with me Mr. E. E. Fairweather, K.C., Chief Counsel of the Canadian National Railways; Mr. D. M. Fleming, one of the solicitors for the Michigan Central Railroad; Mr. Alistair Fraser, Vice President of the Canadian National Railways; Mr. Bernard Allen, Assistant Economist of the Canadian National Railways; Mr. L. J. Knowles, Special Traffic Representative of the Canadian National Railways; Mr. Geo. Stephen, Vice President of the Canadian Pacific Railway; Mr. C. E. Jefferson, Freight Traffic Manager of the Canadian Pacific Railway; Mr. F. C. S. Evans, Transport Service Representative of the Canadian Pacific Railway; Mr. R. S. Black, Divisional Superintendent of the Père Marquette Railway; Mr. L. A. W. Doherty, Freight Traffic Manager of the Canada Steamship Lines and Mr. J. P. Doherty, Manager of the Lake Freight Association.

I may say, in opening, Mr. Chairman, that the interests which we represent are in support of the Bill in principle. It does not go so far as we should like to see it go, but we accept it as a start on the road to proper regulation of all transport. The gentlemen who are here with me will be very glad to answer any question that members of the Committee may have to put when I get through.

Our situation in 1903 was somewhat the situation of the present chief objectors to this Bill, who are the unregulated transport interests, with the exception, I may say, of the large proportion of the water carriers, who have expressed themselves in support of the Bill in principle. You will remember, Mr. Chairman, that prior to 1903 there was a situation that became very unfair from various standpoints. I submit, sir, with all deference to the Right Hon. Mr. Meighen, that the situation which called for regulation at that time was not entirely due to monopoly. In fact there was not a monopoly at that time. It is all very well to say that the railways were monopolistic in their character, but as a matter of fact what did we have at that time? We had the Grand Trunk, the Canadian Pacific, the Père Marquette, the Michigan Central and the Wabash, all competing bitterly against one another in the territories that they served. The situation that had to be cured was one that was shot all through with rebates, unjust discrimination, one man getting a rate for the carriage of his goods which his competitor could not get. My information is—I of course have no personal knowledge of this, for I was just a boy at the time—that even different freight agents of the same company were giving different rates in trying to get traffic for their own particular districts.

The CHAIRMAN: Passenger rates too were not uniform.

Mr. FLINTOFT: Passenger rates were a joke. In many cases the railway got about what the passenger wanted to give.

Right Hon. Mr. MEIGHEN: I do not recall that. And I had a vote.

Mr. FLINTOFT: You were not shipping freight.

Right Hon. Mr. MEIGHEN: No, but I was travelling. And I did not go through that paradise.

Mr. FLINTOFT: I am speaking particularly of freight. We all know the condition that existed as to passenger traffic. I have been told of instances where a district freight agent, for instance, would quote to an industry in his district a rate in competition with the rate that was quoted by his fellow freight

agent in another district for the same class of goods. There was no publication of rates, and that was the difficulty. The situation was open to all sorts of abuses. And I say, sir, that it was not by reason of the fact that the railways were a monopoly that the rate sections of the Railway Act were passed; it was by reason of the existence of those abuses, unjust discriminations, unreasonable rates and all sorts of secret rebates which were being given daily to competing shippers in the same line of business.

Now, sir, I submit that the same situation exists to-day in regard to other classes of transport that have sprung up since 1903. Secret rebates are given; contracts are made with one shipper to carry his goods, but the same rate does not have to be given to another shipper because there is no publicity. They can make all sorts of secret contracts, and we know they do so; but we have not any means of meeting the competition because no public notice is given of any of these concessions.

Hon. Mr. DANDURAND: So it is a cut-throat game?

Mr. FLINTOFT: Yes. They are cutting their own throats, and particularly in the case of highway transport. They cut their own throats and go out of business, and another fellow comes along to take the place of everyone who has failed. He is financed in some way, he manages to get a truck and he starts in at the same game, which he continues for as long as he can last.

Hon. Mr. DANDURAND: Does the same thing exist to a certain extent with regard to water transport?

Mr. FLINTOFT: I was going to deal with water transport, sir, later. Before I come to that I want to point out, if I may, that railways, prior to 1903, objected to regulation when the situation was being investigated by the Royal Commission which went into it, headed by the present Assistant Chief Commissioner of the Railway Board. The railways fought against this thing, for they feared it was going to tie them hand and foot. Incidentally, my information is, one of the members of the House who raised the chief objection to this system of regulation at the time, turned out to be a man who was in enjoyment of one of these secret rebates. The objections, whether on the part of railways or some shipping interests, were objections on selfish grounds. And I suppose anyone will frankly admit that the objections which are being made to-day are on selfish grounds.

Hon. Mr. BLACK: Not altogether, no.

Mr. FLINTOFT: Well, possibly not. They are not for the benefit of the other fellow, anyway.

Hon. Mr. BLACK: Well, the objection so far as coastwise shipping is concerned is not on selfish grounds; it is on the ground of impossibility of enforcement.

Mr. FLINTOFT: I think the railways said the same thing in 1903. They said this could never be enforced, that it would be impossible to get rates published or stabilized.

Right Hon. Mr. MEIGHEN: If they were wrong then they may be wrong now.

Mr. FLINTOFT: The railways were wrong then. The interests which are taking the same position to-day are possibly wrong in their attitude. We have learned by long experience and have changed our views as to regulation. I do not think you would get any railway man to-day to suggest the doing away of proper railway regulation.

Hon. Mr. DANDURAND: It is regulation or chaos?

Mr. FLINTOFT: Absolutely, sir. I think the Minister suggested, when he made his original statement, that it was a case of either doing away with

the regulation of railways, as it exists to-day, or of bringing all forms of transport under proper regulation. And that is our position, although frankly we say we would not advocate the doing away of regulation of railways, because we think that would bring about a condition which would not be for the benefit of either the railways or the shipping public. Without regulation one fellow thinks he is getting a benefit by a cheap rate; he believes that a bargain-counter rate gives him an advantage over his competitor. But later on he will suffer, because his competitor will get a secret rate and be able to under bid him in the sale of goods. That is the kind of thing that is going on all the time now through these other instrumentalities of transportation.

Hon. Mr. CALDER: Mr. Flintoft, the conditions which you referred to with reference to rebates and secret agreements and low passenger rates applied only to Eastern Canada, not to Western Canada.

Mr. FLINTOFT: I do not know anything about the West, sir.

Hon. Mr. CALDER: In 1903 we had only one railway and it did as it pleased. There was a tremendous agitation for control, on account of monopoly. Those conditions to which you referred existed from Fort William to the East.

Mr. FLINTOFT: I quite agree, sir. My point has been that the regulation of the railways was not brought about entirely by monopoly, but partly on account of other abuses which I have mentioned.

Hon. Mr. CALDER: We never had any of those low passenger rates out West when I was a young fellow.

Mr. FLINTOFT: As I say, our attitude as a result of experience has changed. We think that a very much better condition has been brought about, in so far as the railways are concerned, by the regulating provisions that have been put into the Act.

After Mr. Campbell's explanation, it is hardly necessary to point out to you that there is a very great flexibility in the rate-making and regulating provisions of the Act. It is altogether a mistaken idea that the Railway Board fixes rates. The Board controls rates, and if abuses crop up the Board has power to do away with them.

Back in 1903 water competition on the Great Lakes was relatively unimportant. In fact water competition on the Great Lakes did not become a very serious factor until after the War. It was in the 20's that we saw a very large increase in lake tonnage, and from 1930 on we have had a surplus of tonnage due to the depression which has made much more acute the conditions that were developed by the increased construction of the 20's. To-day the situation is that some ships are tied up; the owners of the rest are at one another's throats and doing everything they possibly can to compete with one another, and cutting rates that no one in the world would regard as reasonably compensatory for the service that they perform. I do not think anyone would suggest that such a condition is healthy or one that should be allowed to continue.

In regard to that feature the Minister this morning indicated the changes that he proposed. It seems to me that he is now suggesting a very modest extent of rate regulation. As I understood him, he proposed to exempt altogether from the Bill coastwise trade of the Maritimes and British Columbia, leaving in the Bill only traffic from east of Father Point to the head of the lakes and the intercoastal movement which, as was pointed out to-day, is regulated in the United States.

As to Senator Black's suggestion in that regard, I appreciate the face that the industries in the Maritimes wish to take advantage of every opportunity for a low rate to the head of the lakes; but my information is—I am subject to correction—that a movement such as that pictured by him is practically non-existent; that is, the business is not done in that way. Sugar to the head of

the lakes from Halifax and Saint John is carried in what you might call a regular liner service. There are ships to-day plying between Saint John and Halifax and the head of the lakes on a regular schedule. They come along and pick up traffic. As I understand it, their principal commodity westbound is sugar, and eastbound flour. They are in competition in that service with ships that ply from points in Quebec and west, principally Montreal, to the head of the lakes, carrying sugar from the refineries at Montreal and bringing back flour. They pick up anything they can get to fill up their cargo space. But I suggest it would be a very unfair situation if the Maritime shipper in that regard were left in a position of absolute freedom when his competitor at, we will say, Montreal has to ship under rates that are published and known to all his competitors.

As to highway traffic, it is of course well known that this is a comparatively recent development. Before 1920 Canada had virtually no commercial traffic on the highways. It was in 1920, if I remember correctly, that the Ontario Government began its intensive campaign for road improvement. Then the other provinces followed Ontario's example, and millions and millions of dollars have been spent on road improvement. This work, as has been stated by provincial Ministers, was primarily intended for the pleasure-seeking private automobile, but has been used to the advantage of commercial trucking. Those commercial trucks are to-day operating in such a manner that the larger organizations at any rate disapprove of entirely; but they have no real protection among themselves, and they are cutting their own throats. Incidentally, they are taking traffic from the railways under very unfair conditions. There is a very heavy traffic between Toronto and Montreal to-day; in fact between Ontario points and Quebec points generally. We have no means of knowing what rates are being charged. That traffic is far from being the unimportant element as pictured to you by some of those who represented the trucking industry at previous hearings.

The CHAIRMAN: I made a note of the suggestion about the insignificance of highway traffic as indicated by the percentage given.

Hon. Mr. DANDURAND: Interprovincial?

The CHAIRMAN: No, altogether. As I grasped the point, it was that there was no necessity for the railways to worry about that traffic, it was so insignificant in percentage.

Right Hon. Mr. MEIGHEN: The Duff Commission Report put it at about 6 per cent; that is, all truck traffic. I cannot believe that that would be correct now, or anything like it.

Hon. Mr. HOWE: Mr. Mason has just handed me a note that the 370 vehicles referred to were public commercial vehicles operating from one province into another province or state and would not include the large number of private commercial vehicles operating from one province into another province or state, and would not include the large number of commercial vehicles operating between points in one province, but which might carry some goods in the nature of through merchandise.

Mr. FLINTOFT: The figure is very misleading. We could not see how they could possibly get at any figures such as 6 per cent. I understood Mr. Mason to say it was pretty much of a guess, a jump in the dark.

The CHAIRMAN: I was going to take that figure and ask this question. Would it not be possible that the difference between the railways coming out even or having a little profit might be just that percentage?

Mr. FLINTOFT: It has been estimated, sir, by the Department of Economics of the Canadian National Railways that, taking a year—I think it was based on 1936; we will give you this in more detail when Mr. Allen comes to make

his statement—the loss to the railways from motor-truck competition, owing to the fact that, in the first place, the traffic taken from them was a direct loss, and, secondly, there was indirect loss through reductions in rates made in an endeavour to hold the traffic to the railways, amounted to about \$38,000,000 a year. That is a very carefully worked out estimate.

Right Hon. Mr. MEIGHEN: Both the railways?

Mr. FLINTOFT: Yes, as I understand it is both the railways. Is that right, Mr. Allen?

Mr. ALLEN: (Economist, Canadian National Railways): Yes.

Hon. Mr. ROBINSON: I suppose the public will get the benefit of that loss to the railways?

Mr. FLINTOFT: Some of the public may get the benefit, but others are suffering. I think that is one of the curses of this situation to-day. The trouble is that the fellow who gets the benefit is in competition with another fellow who is not in a position to get it, because there is no publication of trucking rates; it is all done in secret.

The CHAIRMAN: Then the statement made as to percentages, if correct, might mean the difference between profit and loss to the railways.

Mr. FLINTOFT: Quite so. I wish we had that \$38,000,000.

The CHAIRMAN: The percentage is not so insignificant as it looks.

Mr. FLINTOFT: No. I will not say it is a net loss, because there would be some additional expense, but I think you can safely say there would be a net loss of over \$30,000,000.

Hon. Mr. CALDER: Your argument, Mr. Flintoft, would be something like this. If a garment-maker, say, in Montreal, had his goods trucked to Toronto on one of those cut rates, the man who handles the goods at the other end would make the profit. He probably would not lower his price to the public; he would make his extra profit on the lower freight rate.

Mr. FLINTOFT: Yes, sir. It creates an unfair condition between shippers and merchants.

Hon. Mr. CALDER: Another merchant in Toronto might not be able to get his goods at the same low rate.

Mr. FLINTOFT: Yes, sir. I think I could not do better than quote what Mr. Stuart Brown, of the Canadian Manufacturers Association, said at page 104 of the proceedings:—

At the outset it may be stated that the users of the various transportation services are primarily interested in the maintenance and development of various classes of transportation in such a way as to provide adequate, reliable, and prompt service at reasonable rates.

We submit that that is the situation which this Bill is designed to bring about. As I said at first, I do not think the Bill goes far enough. I think it will be found that in the development of rate regulation further provisions will have to be added, just as they were added to the Railway Act. There were several revisions of this Act. But in our view this Bill is a good start. And this is the time to make a start. It is argued on behalf of the truck operators that there is a comparatively small proportion of interprovincial traffic, and therefore it is not worth regulating. We say that now is the time to start the trucks on the right road. Do not let this abuse develop and then later on impose a measure of regulation that will cause more disturbance than would be the case if action was taken in the infancy of the business so that it may be brought up in the way it should go.

Now, Mr. Chairman, Mr. Meighen questioned the Minister as to the situation in the United States.

Right Hon. Mr. MEIGHEN: Before you pass to that, Mr. Flintoft, you quoted Mr. Brown of the Canadian Manufacturers Association as wanting to bring about what this Bill is intended for. But they were here with a vigorous argument in opposition to the Bill.

Mr. FLINTOFT: I know. But I do not understand the Manufacturers Association to be entirely against this Bill in regard to its general principle. The representatives of the Association pointed to the fact of their satisfactory relations with the railways under rate regulation. Their Mr. Brown is here. He can say whether the Association is opposed to the Bill or not, but I think its officials will be the first to acknowledge that the system of rate regulation built up under the Railway Board has eliminated the abuses that is was designed to eliminate,—

Right Hon. Mr. MEIGHEN: Oh, yes.

Mr. FLINTOFT: —and I submit that the same abuses exist to-day and that naturally many shippers at that time opposed rate regulation because they thought it was in their interest to be free to make all sorts of secret contracts. But, generally speaking, the situation to-day in regard to other forms of traffic is what faced the country in 1903, and although there were no other forms of traffic there was the worst sort of competition between the railways themselves.

Now, sir, I might just refer to the Duff Commission report because some reference has been made to it in the previous hearings. I would refer particularly to section III, beginning at page 54, dealing with competition from other transport agencies. I need not trouble you with all the statements in this section, but it says at page 55 that:—

In the conveyance of freight, the motor truck, principally the privately-owned, has made serious inroads into the short-distance traffic of the railways.

Then it says at paragraph 160:—

But in so far as the diversion is due to lower costs as a result of road vehicles not bearing their fair share of the cost of the highways which they use, or because they are free from regulations analogous to those imposed on other forms of transport, then such a diversion may very well be opposed to the best interests of the country's welfare.

And in the next paragraph, 161:—

We feel that not only is unfair competition between railways definitely harmful to the general welfare but that unfair and unregulated competition between railways and road operators is also damaging, resulting as it does in waste and duplication of effort.

And 163:—

It is generally recognized that there is a need for regulating road motor services and for equalizing the conditions under which road and rail services are provided.

And 164:—

If the railways lose a large part of their profitable short-distance traffic to the roads a readjustment of the whole freight rate structure may be necessary, with a possible increase in the rates charged for the long distance and heavy freight traffic.

And in 165:—

Because they are essential and because the railway freight rate structure implies conditions approximating to a quasi-monopoly, the railways require, if they are to continue to operate efficiently, a measure of protection from long-distance road competition and an equalization of the conditions under which short-distance traffic is carried.

And the next paragraph, 166:—

In our view, this division of function will not be best obtained through the arbitrary action of governments, but rather through the efforts of those engaged in the transport industry. By concentrating less on mutual competition and by turning their energies to the co-ordination of the services they provide, a properly co-ordinated system of transport will be evolved. In our view the true function of road transport, in such a co-ordinated system, as auxiliary and complementary to the steam railways, would appear.

They suggest that the federal and provincial governments should co-operate in meeting this situation, and one of the general principles they cite in paragraph 168 is that the schedule of rates and charges should be published, thus giving the publicity we argue for.

The CHAIRMAN: Are these not published with regard to highway traffic?

Mr. FLINTOFT: No. There is no publication at all. Nobody knows what his neighbour is paying, and the railways have no means of discovering what the competition is that they have to meet. There have been cases where we have published lower rates to meet competition which has been described to us by a shipper, and after the publication of this rate, which, as you know, under the Railway Act is open to anyone who wishes to ship under it, we have found that the shipper has gone behind the door and made a secret agreement with the truck operator and dished us anyway.

Hon. Mr. HORNER: Do you think there is anything in this Bill that would prevent that?

Mr. FLINTOFT: No, sir. As we see it, one of the most valuable features of the Bill is the publicity that will be given to the rates.

Hon. Mr. HORNER: Of what they wish to make public.

Mr. FLINTOFT: Yes, sir. Of course, if you throw up your hands and say the law cannot be enforced, why, all right; but in the United States they are enforcing such a law, and even within the short time that it has been in effect there has been a noticeable improvement in the situation. We find, moreover, that the shippers and the truck operators themselves are evincing a very much more favourable attitude towards it. We find too that many of the individual states are modelling their systems of regulations on the system now put in effect by the federal authorities.

Hon. Mr. HORNER: In connection with the competition with the railways and the loss of traffic through trucks, the various labour unions throughout the railway system have been responsible, have they not, in large measure for the loss of business by the railways, because of the regulations as to hours and so on? At small stations throughout the country where there is only one agent, the hours are 8 to 5, and if any person sends for repair parts for a machine, the agent—through no wish of the railway but because of the regulations of the union and the agent's fear of death or something worse—could not deliver anything after five o'clock. On the other hand, a truck will make delivery at any hour of the night or day. That has been responsible for a lot of the business leaving the railways and going to the trucks. The labour unions are a law unto

themselves, and neither the Board of Railway Commissioners nor anyone else will interfere.

Mr. FLINTOFT: The railways do not contend for a minute that there is not a field for the truck men. We do not argue that. We admit that within a certain range the business can be more economically and conveniently carried on by truck; but we say that even in that field there should be proper regulation as to the rates of the trucker and the conditions under which he handles the traffic.

Hon. Mr. CALDER: You want publicity.

Mr. FLINTOFT: Yes, sir, we want publicity and we want stability.

Hon. Mr. LAIRD: Is it not a fact that in the Western Provinces the truck men are required to post their rates and that the provinces control rates?

Mr. FLINTOFT: My information is that there are statutes providing for that, but that they are not effectively enforced to-day.

Right Hon. Mr. MEIGHEN: It is desperately hard to enforce them too, I think.

Mr. FLINTOFT: In certain cases, yes.

Hon. Mr. LAIRD: But they have to post the rates with the provinces.

Mr. FLINTOFT: They have a very much more acute situation in the United States, because the trucking industry there is developed to a much greater degree than it is here; and while regulation is not perfect, it has brought about a great improvement.

Hon. Mr. LAIRD: Is it not a fact that certain classes of trade can be moved efficiently and conveniently by goods than by rail—furniture, for instance?

Mr. FLINTOFT: That is what I said. Yes, sir. We have to admit that there is a field for trucking, and we do not wish to exclude the trucks from their field. Nor are we afraid of fair competition. We will take our chances in handling the traffic with any of these other agencies if you can give us a run for our money.

Hon. Mr. GORDON: And you do not refer to the short haul, because the railway is not a competitor on the short haul?

Mr. FLINTOFT: Quite.

Hon. Mr. CALDER: You are referring only to interprovincial traffic?

Mr. FLINTOFT: Yes, sir. Of course, we would like to see all the highway traffic regulated, but we cannot ask for that here.

Hon. Mr. CALDER: As I understand it, all you ask is simply this: that every concern that handles interprovincial traffic by truck be regulated—not that their tariffs be regulated, but that when they apply for a tariff there will be publicity.

Mr. FLINTOFT: Yes, sir.

Hon. Mr. CALDER: Then if the railways want to meet that tariff they can do so.

Mr. FLINTOFT: Yes, sir.

Hon. Mr. CALDER: And if they do not want to or cannot, they won't.

Mr. FLINTOFT: Yes, sir.

Hon. Mr. CALDER: That is all you ask.

Mr. FLINTOFT: And, as I said before, and as Mr. Campbell pointed out, in the case of the railways the Board does not fix the rates except for the standard mileage tariff, on which very little traffic moves. The rates on which the traffic moves are filed by the railways and there is great flexibility.

Hon. Mr. CALDER: If any trucking company, after filing its tariff, were to make a rebate or secret agreement providing for a lesser rate, it would be penalized and lose its licence?

Mr. FLINTOFT: Yes, sir.

Now, Mr. Meighen suggested that there was an effective control by reason of the fact that licences could be withdrawn if rates were not observed. Manitoba, Saskatchewan and Alberta require publication of rates, but the rest of the provinces do not, and I have never heard of a licence being withdrawn because of any rate infraction.

Right Hon. Mr. MEIGHEN: It would never be withdrawn because it was too low.

Mr. FLINTOFT: No, I don't think so. But I have never heard of it being withdrawn. I think that would be a pretty illusory form of control as it is practised in Canada to-day. What we want to do is to get these things published so that the public will know what these fellows are charging, and so that each person can get the same rate as his neighbour and we will be given a chance of meeting competition.

Hon. Mr. DANDURAND: And you say the shippers themselves are interested?

Mr. FLINTOFT: Yes, sir.

Hon. Mr. CALDER: That is the point.

Mr. FLINTOFT: Now, my friend Mr. Mason suggested that this could all be cured by an interprovincial conference. We know of the efforts that have been made in that direction in the past, and that they have been fruitless, and we say that it is for the Dominion to lead the way to-day and place some form of regulation on the statute books and set up the necessary machinery, as has been done in the United States. That is the only way you will make a start on proper regulation. Let the Dominion occupy the field that belongs to it and put into effect proper regulation. You will find that it covers a very important volume of traffic as between the provinces. Then the provinces, we hope—and the opinion that has been expressed by the trucking interests themselves bears this out—would very probably be encouraged to follow along and put their intra-provincial traffic under regulation similar to the federal regulation.

Hon. Mr. PARENT: Your idea would be to give this Bill a fair trial, subject to correction later on?

Mr. FLINTOFT: Yes, sir. It is a matter of development. As Mr. Howe said, none of this legislation is perfect; but we say it is a very decided step in the right direction. My friend Mr. Campbell said the other day that the way to meet the situation was to sit down around a table and iron out our difficulties. We would never get anywhere in that way. The lake carriers have been fighting each other across the table for years. What is needed is a referee, someone who will say: "Now, you play the game or you are subject to penalty."

Hon. Mr. CALDER: What would happen in a case like this? Suppose a truck leaves Montreal with only one-third of its cargo for Toronto, the rest to be delivered in the province of Quebec?

Mr. FLINTOFT: I would say that the rate on the portion to Toronto must be published, and if the carrier did not observe that rate it would be too bad.

Hon. Mr. CALDER: There would be no attempt at control so far as two-thirds of the cargo is concerned?

Mr. FLINTOFT: No.

Hon. Mr. LAIRD: How would you suggest the Federal authority could be applied on the highways without consent of the provinces, in view of the statement by Mr. McQuesten, Minister of Highways of Ontario, who said his province would not permit Federal control, and the statement of the Nova Scotia Minister of Highways, who said his province would fight it till hell froze over?

Mr. FLINTOFT: I am not going to get in between the wringers, between the Dominion and the provinces. I think that is properly a matter for the Law Officers of the Dominion to decide. We have had contests between the Dominion and the provinces before, and I do not suppose this would be the last one by any means. Anyway, I do not think this Senate Committee is to be frightened by what Mr. McQuesten says at Toronto or what somebody else says at Halifax. This Senate Committee has a Bill before it, and the opinion has been expressed that it is within the powers of Parliament to enforce the Bill.

Hon. Mr. LAIRD: Who expressed that?

Mr. FLINTOFT: The Law Officers of the Crown, as I am informed.

Hon. Mr. DANDURAND: In so far as it bears on interprovincial traffic.

Hon. Mr. CALDER: The Bill would not be here if that opinion had not been expressed.

Hon. Mr. DANDURAND: I would ask Mr. O'Connor, the Senate Law Clerk, to give his views, in so far as interprovincial traffic is concerned.

The LAW CLERK: Interprovincial traffic is cited in at least one decision of the Judicial Committee of the Privy Council, that I can remember as an instance of a fit subject for the exercise by Parliament of its power in regard to trade and commerce. If you keep in mind the fact that the Bill is dealing with trade, and not with highways, you will see there is no invasion of provincial powers.

Mr. FLINTOFT: I do not think there is anything further I can usefully add. I gather from reading the proceedings of this Committee that there has been a pretty general agreement that the situation as it exists to-day calls for a remedy. I submit that the Bill is a proper step in the direction of the remedy, and that therefore the Bill should be passed. There are some provisions in respect of which we should like to suggest amendments when you come to consider the Bill clause by clause, but our position generally is in favour of the Bill.

There are with me, as I said at the beginning, officers of the railway companies who will be very glad to answer any questions you may wish to put them. In particular we have prepared a statement as to highway traffic and the agreed rates which we would like to put on the record. Mr. Allen, the Assistant Economist of the Canadian National, is here and will give that statement to you.

Hon. Mr. PARENT: Who is the gentleman who can answer Senator Horner's point, as to a station agent often not being on hand to deliver goods after 5 o'clock in the afternoon?

Mr. FLINTOFT: I have to admit that there are cases where the station is closed after 5 o'clock.

Hon. Mr. CALDER: That would be a purely local matter, not an interprovincial one.

Mr. FLINTOFT: The railways have to suit their facilities and their services to what is considered proper for the traffic. If a station is not handling enough traffic to justify an agent being on duty twenty-four hours a day, I do not think anybody would ask the railways to keep an agent available for twenty-four hours a day.

Hon. Mr. ROBINSON: As I understand it, an agent may be willing enough to be on hand to accommodate a consignee, but labour organizations will not let him, after certain hours.

Mr. FLINTOFT: I do not know about that, sir.

Hon. Mr. CALDER: There is one point I am not quite clear about. It is stated that the Board of Railway Commissioners does not initiate rates. But take this case. If the Bill goes through as it now is, and a railway company files a rate, the rate will be published. Some person may take objection to the rate, and when the Board is advised a hearing will be set. If as a result of the

hearing the Board thinks that the rate is not a proper one, it will fix what it thinks is a proper rate, is that it?

Mr. FLINTOFT: Yes, the Board revises it.

Hon. Mr. CALDER: Well, take a truck that is being used in interprovincial traffic. Its rates would have to be filed with the Board. Then suppose a railway company objects and says the rate is not fair. It will be up to the Railway Board to fix the rate for trucks with regard to the class of goods in question. Is that not right?

Mr. FLINTOFT: Yes, I think that would be a fair way of putting it.

Hon. Mr. CALDER: So that the Railway Board, in that case, becomes the fixing authority?

Mr. FLINTOFT: I would prefer to call it the controlling body, sir.

Hon. Mr. CALDER: No, it would be the fixing body.

Mr. FLINTOFT: It controls the rates. If in its judgment a rate is unreasonable or unjustly discriminatory or otherwise contrary to the provisions of the Act, the Board can in its finding state the rate which it thinks is proper.

Hon. Mr. CALDER: If this Bill goes through, trucks would have to file their rates for the carrying of goods from Montreal to Toronto, say. I can conceive that the railway companies would immediately object and say the rates are too low.

Mr. FLINTOFT: They might.

Hon. Mr. CALDER: I can conceive that they would, because they do not like what is happening. Then there would be a fight before the Board, between the railways and the trucks, and the Board would have to fix a rate.

The CHAIRMAN: That would be after a proper hearing.

Mr. FLINTOFT: Yes. It is a more or less judicial act on the part of the Board, which is just a referee.

Right Hon. Mr. MEIGHEN: There are sufficient railways between Montreal and Toronto to carry all the traffic, are there not?

Mr. FLINTOFT: I should say many times more.

Right Hon. Mr. MEIGHEN: One of the things which the Board has to take into consideration, when an application for a licence is made, is whether there are already ample facilities. So this Bill would put into the hands of either the Board or the Minister—I am inclined to think it would be the Minister—the right to say there shall be no truck traffic between Montreal and Toronto because there are ample facilities now for carrying the goods.

Mr. FLINTOFT: The Minister cannot issue a licence unless the Board first gives a certificate as to public convenience and necessity. And in inquiring into the situation the Board must give due regard to the various principles that have been laid down in Canada and Great Britain. But having given due regard to them, it is open to the Board to decide in the way that it thinks is best.

Hon. Mr. DANDURAND: Does Senator Meighen think that Board or the Minister could eliminate truck traffic under these conditions?

Right Hon. Mr. MEIGHEN: Yes, surely.

Hon. Mr. HOWE: The provinces to-day exercise the right to grant or refuse truck licences.

Right Hon. Mr. MEIGHEN: But there is no danger with regard to them, because they do not have to bear the railway burden.

Hon. Mr. HOWE: I think the Board would go on the principle that you cannot regulate one type of traffic for another type of traffic. I do not think there is any danger.

The CHAIRMAN: The province has a right now to refuse a licence to operate within its own jurisdiction, on the ground that there already are enough transportation facilities.

Right Hon. Mr. MEIGHEN: Yes.

Mr. FLINTOFT: Section 29 says it shall be the duty of the Board to take into consideration various factors. The Board is supposed to exercise a sound judicial discretion. Why should anybody object to being put under a proper judicial tribunal in matters of controversy of this sort? We are willing to face it. We have faced it for thirty-three years and have not suffered very much. We kicked like steers in the early days, and I can tell you that our tails were trimmed many times and the public got a great deal of benefit in that way.

Right Hon. Mr. MEIGHEN: Section 29 sets out four points which the Board must consider before granting a certificate of public convenience and necessity. If three of those points were taken into consideration the Board would not grant any certificate for a licence between Montreal and Toronto at all.

Mr. FLINTOFT: I would not say that is necessarily so, sir, because I think there are certain types of traffic which it is frankly in the public interest to have handled by trucks.

Right Hon. Mr. MEIGHEN: That may be, but that would not be indicated as the right policy in this Bill. In the first place, the Board would have to take into consideration any objection that there are already ample facilities.

Mr. FLINTOFT: It does not say "ample," sir; it says "suitable facilities." Now, I think there are certain types of traffic with regard to which the Board, in its discretion, might well hold that the trucks provide a superior facility to that offered by the railways.

Right Hon. Mr. MEIGHEN: Between Montreal and Toronto now?

Mr. FLINTOFT: Yes, I am speaking of between Montreal and Toronto.

Right Hon. Mr. MEIGHEN: I doubt it. It is a day's travel both ways, and the railways deliver at each end.

Mr. FLINTOFT: You will see lots of trucks travelling between Montreal and Toronto if this Bill goes into effect.

Right Hon. Mr. MEIGHEN: Paragraph (b) of section 29 says the Board has to consider "whether or not the issue of such licence would tend to develop the complementary rather than the competitive functions of the different forms of transport." Well, the trucks are certainly competitive. And paragraph (c) says the Board must consider "the general effect on the transport services in, and the costs to, the community involved in the issue of such licence." Well, the community would have less cost if there was not a competitor. These three paragraphs of the section would indicate to the Board that Parliament is directing it to refuse the certificate.

Mr. FLINTOFT: The section says the Board has to take these factors into consideration.

Right Hon. Mr. MEIGHEN: It does not mean they shall take them into consideration and then disregard them.

Mr. FLINTOFT: In an individual case, the Board may find that the existing facilities are not suitable for certain classes of traffic.

Hon. Mr. CALDER: I take it these provisions apply to railways at present?

Mr. FLINTOFT: No, sir, because to-day the railways do not have to apply for a certificate of public convenience and necessity. We get our charter powers from Parliament.

The CHAIRMAN: We can keep this point in our minds until we come to deal with the Bill clause by clause.

HON. MR. SUTHERLAND: I think Mr. Campbell informed the Committee that only 10 per cent of the business of the railways is conducted under what are termed standard rates.

MR. FLINTOFT: Yes.

HON. MR. SUTHERLAND: And 90 per cent is conducted under special and competitive rates.

MR. FLINTOFT: Yes, sir.

HON. MR. SUTHERLAND: Does not that justify this 10 per cent resorting to some different methods from those that have been in effect in order to get redress from the unfair discrimination against them?

MR. FLINTOFT: Or course, sir, that is not regarded as unjust discrimination under the Railway Act. There are, as Mr. Campbell explained, standard rates, which are the maximum rates the railways are allowed to charge. For instance, if you have a small shipment, say, a wheel-barrow, moving to a flag station, it would not pay the train to stop to unload the wheel-barrow at that little station. There is no special tariff probably in effect covering that particular movement, and you pay what is the standard rate, which is pretty cheap transportation. But to practically all stations to which traffic in any volume moves, none of the traffic moves on those standard rates. There are special rates, commodity rates as they are called, from all important shipping points to shipping points of even minor importance. As a matter of fact, as I said before, we do not suggest there is not a field in which the truck can legitimately operate. In fact we do not say the truck should not operate in any field if it can do so on a fair basis of competition with us. We are willing to take our chance if the rates are published.

RIGHT HON. MR. MEIGHEN: I think your case is pretty strong if you can show it will work.

MR. FLINTOFT: That can only be decided by experience, sir. I think it will work.

RIGHT HON. MR. MEIGHEN: Would it not be better to see what kind of a mess they are getting into in the States?

MR. FLINTOFT: They are not getting into a mess there.

RIGHT HON. MR. MEIGHEN: They are really doing very little.

MR. FLINTOFT: As a matter of fact in the States to-day the Interstate Commerce Commission is holding hearings all over the country on these matters in co-operation with the State Commissions.

RIGHT HON. MR. MEIGHEN: We have the Railway Commission holding hearings all over this country.

MR. FLINTOFT: But in the States they are effectively regulating the rates, and they are showing a very great improvement in the trucking industry itself as a result.

RIGHT HON. MR. MEIGHEN: That would be very important to have before us.

HON. MR. HOWE: I think the companies could be brought here to say that the rate regulation is effective. They have told me so.

HON. MR. MOLLOY: The trucking interests say the amount of freight they handle runs from 3 per cent to 7 per cent. In your statement you say the railway companies lost in one year \$38,000,000. What percentage of the freight would that \$38,000,000 represent?

MR. FLINTOFT: The total freight of both railways?

HON. MR. MOLLOY: Yes.

MR. ALLEN: It would represent 16.1 per cent of the gross freight revenue.

HON. MR. GORDON: Surely interprovincial freight would not run up to \$38,000,000.

Mr. FLINTOFT: No. That is what we say we lost to the trucks.

Hon. Mr. GORDON: What percentage do the railways consider is not competitive traffic at all, the trucks having got the railways in that position? That would be greater than \$38,000,000, would it not?

Mr. FLINTOFT: I think it would be very difficult to get at any figure.

Hon. Mr. COTE: Mr. Flintoft, you have given us an estimate of the loss to the railways from the trucking business. Have you an estimate of your loss of business to the navigation companies on the Great Lakes?

Mr. FLINTOFT: We have practically lost all the grain traffic, for one item.

Hon. Mr. COTE: Do you think regulation will divert that traffic to you again?

Mr. FLINTOFT: I would say, sir, that our friends the lake shippers are more directly interested in the grain traffic at the present time than are the railways. As you know probably, going back to 1903 and for some years after that, we got a very considerable all-rail movement from the head of the lakes in the winter time. We get none of that now. It was so important that along in 1911 the Canadian Pacific started to double-track that line from Sudbury to Port Arthur and spent a lot of money on it. We have torn up the second track since. We used to get as much as 250 cars of grain a day east of Port Arthur in the winter time. We get an odd car perhaps once a month, but nothing like the former traffic. In the summer time we get no grain whatever, you might say, from the head of the lakes to Georgian Bay for rail to Montreal. That was a very important traffic until, I suppose along in the twenties, 1924 or 1925. We got a large volume of traffic on which we quoted a rail rate from the Bay to Montreal in the summer and a rail rate to Saint John and Halifax in the winter. That was a very considerable movement. That has gone. We get very little of it to-day, practically none. It goes all water to Montreal in the season of navigation.

Hon. Mr. CALDER: After the Great Lakes freeze up what happens?

Mr. FLINTOFT: As I say, we get what they can fill up the elevators with in the autumn at the Bay ports. We get that for carriage to Saint John or Halifax in winter.

The CHAIRMAN: You used to get some grain stored in the ships.

Mr. FLINTOFT: Yes. They used to store it at the Bay ports. You might have around 15,000,000 bushels at one time.

Hon. Mr. CALDER: You get the rail haul to Port Arthur and to Vancouver, and you get a certain amount of rail haul in the winter time.

Mr. FLINTOFT: Just a dribble. Of course if there happened to be a shortage of lake tonnage we might get the traffic because we can give a little better service.

Hon. Mr. COTE: Mr. Flintoft, when you give your support to the Bill to fix navigation rates on grain, have you in mind unfair competition to the railways?

Mr. FLINTOFT: Yes, sir. There is very unfair competition to the railways to-day, particularly in package freight. We were speaking of sugar. The boat lines have cleaned us out of sugar pretty well, and flour. We do get a certain amount of flour, but they have made very heavy inroads on eastbound flour traffic.

Right Hon. Mr. MEIGHEN: That is not package freight.

Mr. FLINTOFT: Oh, yes.

Hon. Mr. BEAUBIEN: Mr. Flintoft, has the rate regulation in the States been long enough in effect to be reflected in the returns of the railroads?

Mr. FLINTOFT: I could not say as to that, sir, whether they can actually state that so many dollars have been brought back to them.

Hon. Mr. BEAUBIEN: Not yet?

Mr. FLINTOFT: I would not say so.

Right Hon. Mr. MEIGHEN: There would be much less interprovincial traffic here than interstate traffic in the United States.

Mr. FLINTOFT: That is true, but you have ten times the population.

Right Hon. Mr. MEIGHEN: It would be far more than that in proportion.

Mr. FLINTOFT: Yes. Some of the states are small. I thank you, gentlemen.

The CHAIRMAN: After the Senate rises this afternoon we will resume our proceedings in this room.

The Committee adjourned to meet again after the adjournment of the Senate this afternoon.

The Committee resumed at 4.15 p.m.

Right Hon. George P. Graham in the chair.

The CHAIRMAN: Gentlemen, will we hear Mr. Doherty?

Hon. Mr. DANDURAND: Of whom is Mr. Doherty the representative?

Mr. John P. DOHERTY, manager, Lake Freight Association, Montreal: Mr. Chairman, I represent the Lake Freight Association, a body of package freight carriers. We represent the interests in the package freight departments of the Canada Steamship Lines, the Tree Line Navigation Company, and the North-west Transportation Company.

The CHAIRMAN: All right.

Mr. DOHERTY: There are two or three points, Mr. Chairman, in Mr. Flintoft's statement this morning that I should like to refer to, if you don't mind, sir, for the purpose of clarifying the record. Mr. Flintoft suggested that water competition really became acute after the war. I think perhaps he had in mind that there was a considerable influx of new tonnage during that period; but I think it should be made definite that these new vessels were brought in to operate in the bulk-carrying trade and had no particular connection with the package freight trade, for which I will speak this afternoon.

Mr. Flintoft also made reference to cut-rate practices, and he referred particularly to the package freight vessel operators. Now, in that regard it might be interesting to note at this time that vessels in the Great Lakes have operated in the package freight trades for well over fifty years. I think many here, Mr. Chairman, will recall the old Richelieu and Ontario Navigation Company, the Jacques Line, the Merchants' Mutual Line, Canadian Lake Lines, and so on. The point I should like to make in that regard is that these companies in their operations maintained package freight services on regular schedules between Quebec, Montreal, Toronto, Hamilton and the head of the lakes, and their carrying charges were stable. They worked their rates out by mutual understanding together, and those rates were based on differentials under the railway rates, even at this time. We know that those operators conferred with the railways for the purpose of arriving at the differential on rates.

In so far as the package freight operators are concerned, they do not constitute to-day a new picture. These services have been operated for a great many years.

Hon. Mr. CALDER: Was there no cutting among themselves?

Mr. DOHERTY: I cannot say there was none, but they did work together for the mutual arrangement of rates.

Hon. Mr. DANDURAND: Are you speaking of a certain period?

Mr. DOHERTY: A period of over fifty years.

Hon. Mr. DANDURAND: Up to when?

Mr. DOHERTY: Up to the present time. These lines I refer to are not operating to-day, because they were merged and most of them, I think, taken under the flag of the Canada Steamship Lines.

That brings us up to the period within the last three or four years when, because of the lessening of the volume of traffic, the competition was much keener for such traffic as actually was available. It was during this period that the package freight carriers by water and the railways disagreed as to the measure of the differential, and because of that disagreement there undoubtedly has been rate cutting as between the two classes of transport. Mr. Flintoft told you this morning that the water lines had cut rates as against the railways. I could tell you also that the railways have actually underquoted water rates. I do not bring this point forward to make any controversy, but I should be glad to have the record clear.

The Lake Freight Association was formed in 1931 for the purpose of bringing stability in freight rates and arrangements as between the three companies that I have already referred to; and the fact that the association was formed for that purpose gives you an indication, I think, that the package freight carriers by water have been anxious at all times to find the best possible in the way of stability in freight rates.

Hon. Mr. BEAUBIEN: How many units do you represent?

Mr. DOHERTY: Three, sir.

Hon. Mr. BEAUBIEN: How many boats?

Mr. DOHERTY: Oh, I would say roughly 30 vessels. There are three companies.

Hon. Mr. BEAUBIEN: What proportion would that be?

Mr. DOHERTY: That is all of the package freight carriers by water? You will distinguish between the package freight carriers operating in regular scheduled services between Quebec, Montreal, Toronto, Hamilton and the head of the lakes, and the bulk carriers.

Mr. FLINTOFT: They are the ones I was talking of.

Hon. Mr. BEAUBIEN: Do they carry package freight too?

Mr. DOHERTY: They carry flour, for example—full cargoes of flour, full cargoes of butter—

Right Hon. Mr. MEIGHEN: Sugar?

Mr. DOHERTY:—full cargoes of sugar and such like; but the package freight carriers, as we define them, are those that carry a miscellaneous class of cargo.

Hon. Mr. BEAUBIEN: Do you carry bulk too?

Mr. DOHERTY: Yes, the companies I represent carry bulk, which will be largely eastbound, in the way of grains.

Hon. Mr. BEAUBIEN: The others carry bulk and sometimes package, and you carry package and sometimes bulk.

Mr. DOHERTY: Our carriers are essentially package carriers, but sometimes they carry bulk from the head of the lakes.

Right Hon. Mr. MEIGHEN: Is it your contention that you regulate yourselves?

Mr. DOHERTY: I will come to the point of regulation. We have, I might say, regulated ourselves during the period of which I speak, with very reasonable satisfaction.

Now, having made these points clear—at least, I hope I have done so—I will come to the question of the Bill itself. The package freight carriers were perhaps somewhat apprehensive at first with respect to the Bill in its present form, but after hearing the clarifying statements of the Minister and of the co-operation suggested in the submission put forward by the railways this morning, and the thought that certain contentious features may be composed, we now feel reassured, Mr. Chairman. We find ourselves fully in accord with the purposes and the principles of the Bill as it will be amended. We believe that much good will arise from the Bill, both in the interests of transport and of its users in this country, under the just and equitable administration of the Board of Transport.

There is just one other thought in reference to Mr. Flintoft's statement this morning. He told you that he was speaking for the Railway Association of Canada, and then he read a number of names, including the name of Mr. Leo Doherty of the Canada Steamship Lines, and my own. I simply want to clarify the record by suggesting that we have not yet attained membership in that very august association.

I thank you.

The CHAIRMAN: Are there any questions?

Hon. Mr. CALDER: Does the truck come into competition with you?

Mr. DOHERTY: On intra-provincial traffic, between Montreal and Toronto and Toronto and Montreal and Hamilton, and also as between Montreal and Quebec.

Hon. Mr. CALDER: Have you any means of being able to compare their rates with yours?

Mr. DOHERTY: Well, it would be rather difficult to make a comparison. We have been forced to reduce some of our rates in the past in order to meet the trucking situation as between Montreal and Toronto, for example.

Hon. Mr. BEAUBIEN: Surely they do not undercut except in fast freight.

Mr. DOHERTY: They have very definitely undercut.

Hon. Mr. BEAUBIEN: In slow freight can they undercut?

Mr. DOHERTY: I do not just distinguish what you mean.

Hon. Mr. BEAUBIEN: Your transportation would be slower.

Mr. DOHERTY: Entirely, sir.

Hon. Mr. BEAUBIEN: Is there not a distinction?

Mr. DOHERTY: There may be a distinction under certain circumstances with respect to certain commodities.

Hon. Mr. CALDER: Take one of your boats leaving Quebec for Montreal. At how many points would it call?

Mr. DOHERTY: Usually Three Rivers and Sorel.

Hon. Mr. CALDER: So the truck could come into competition between Quebec, Sorel and Three Rivers?

Mr. DOHERTY: Right, sir.

Hon. Mr. BLACK: They have advantages in certain instances that you have not. They deliver from warehouse to warehouse.

Mr. DOHERTY: The trucks do that. So do we. We must do it.

Hon. Mr. LAIRD: You do not do it on the prairies.

Mr. DOHERTY: We cannot operate beyond the head of the lakes, sir.

The CHAIRMAN: It has been suggested here that one of the difficulties of the regular carrier by rail or water in comparing rates with the trucks is that the trucks are not compelled in most of the provinces to make their rates public.

Mr. DOHERTY: That is very true. They do not make their rates public.

Hon. Mr. CALDER: Are your rates public?

Mr. DOHERTY: Not necessarily, sir. Some are not.

Hon. Mr. CALDER: Do you think it would be advantageous if they were?

Mr. DOHERTY: We can see a great deal of good to come out of the principle proposed in this Bill.

Hon. Mr. HOWE: Of the total tonnage on the lakes, would you be able to say what part is favourable to this Bill and what part opposed? We have heard certain representations here.

Mr. DOHERTY: As far as the package freight services are concerned, all the package freight operators are favourable. I am speaking for these. As far as the bulk freight interests are concerned, I would judge from suggestions reaching me that perhaps we could take it now that about 75 per cent are favourable to the principle of the Bill.

Hon. Mr. GRIESBACH: We did not form that impression from hearing them.

Mr. DOHERTY: I give that as hearsay.

The CHAIRMAN: They made quite a fuss here.

Hon. Mr. COPP: You said that generally a great deal of good may come from this Bill to all parties.

Mr. DOHERTY: This is our feeling—not only to transportation, but to shippers and receivers of cargoes.

Hon. Mr. COPP: Or is it because you feel your rates would be increased?

Mr. DOHERTY: We feel that stability in transportation rates is a very large factor of advantage to the shipper and receiver of cargoes.

Right Hon. Mr. MEIGHEN: What proportion of the bulk business has the Canada Steamship Lines?

Hon. Mr. HOWE: 30·9; Patterson Steamship, 15·9; the Playfair interests wrote a favourable letter. They represent about 5 per cent. Then there is a letter from the Toronto elevator interests, which are about 12 per cent. The Red Badge Line, 4·7, and also, I think the Great Lakes Transportation, 1·7. It figures up, according to my figures, to about 75 per cent of the total tonnage on the lakes, that have either written in or appeared here in favour of the Bill.

Hon. Mr. CALDER: Mr. Doherty, I understood you to say that your Association has agreed on certain rates as fair, and then you state that the bulk freighters carry a certain proportion of these package goods. Do you find them cutting a rate you have agreed upon?

Mr. DOHERTY: Well, sir, the situation is briefly this. The package freight operators, through the Lake Freight Association, of which I am the Manager, fix their rates, and these rates are fixed at a definite differential under the railways. The bulk carriers have been free, but the bulk carriers except perhaps in an exceptional case have not intervened in the carriage of the general run of package freight traffic. But they have taken full cargoes of newsprint paper; they have taken round lots of sugar; they have handled full cargoes of flour, and so on.

Hon. Mr. CALDER: But the large proportion of their package freight is carried at practically the same rate as yours?

Mr. DOHERTY: No. There is no relationship between their rates and ours.

Hon. Mr. CALDER: With regard to package freight?

Mr. DOHERTY: I will try to make it clear. Our package freight is less-than-carload and carload traffic, and while it is true that we might handle lots of 400 and 500 tons as one parcel of package freight, the bulk carrier does not look to this business, which to him is not economic; he has not got the organization to

handle it. But when he can find a full cargo of one commodity, for instance of flour, from the head of the Lakes to Halifax, he then is interested, and he carries that business, which moves in full cargo lots and which in the ordinary sense would not be handled by the package freight carriers.

Hon. Mr. CALDER: And he would do so at a lower rate?

Mr. DOHERTY: It does often so happen.

Hon. Mr. ROBINSON: Do any of your boats run down to the Maritime Provinces?

Mr. DOHERTY: No, sir; the package freight vessels do not proceed beyond St. Lawrence ports.

The CHAIRMAN: Would not the bulk freighter hunt for package freight, or some kind of traffic, for a return cargo?

Mr. DOHERTY: He looks for paper westbound, and often when he comes down with grain he attempts to find ore and pulp and things like that to carry westward. He tries to balance his run as much as he can, having the grain more or less as a nucleus of his business.

The CHAIRMAN: Could he not interfere with any arrangement you made, by getting some package freight to take back as a return cargo?

Mr. DOHERTY: That has happened at times, but we feel that the provisions of this Bill will take care of eventualities of that kind.

Hon. Mr. LAIRD: Are you affected by American vessels?

Mr. DOHERTY: No, sir. We do from time to time run from a Canadian port to an American port, but we are not affected in that regard.

Hon. Mr. CALDER: Are there any American vessels running from Quebec and Montreal to the head of the Lakes?

Mr. DOHERTY: No, sir, not at all.

The CHAIRMAN: We give them free canal services. Why do they not?

Mr. DOHERTY: Perhaps we have very good services of our own, sir.

The CHAIRMAN: Who is next?

Hon. Mr. HOWE: Mr. Allen is next, is he not?

Mr. BERNARD ALLEN, Assistant Economist, Canadian National Railways: Mr. Chairman, it is my purpose to speak to Part IV, Transport by Highway, and Part VI, Agreed Charges, to these two sections of the Bill.

Hon. Mr. BEAUBIEN: Whom do you represent?

Mr. ALLEN: The Railway Association.

The CHAIRMAN: "Agreed Charges" really mean contracts? When we talk about contracts are we talking about the same thing?

Mr. ALLEN: The same thing, sir.

Part IV—Transport by Highway: (1) The objections of the highway operators before the Senate Committee and also those of Counsel representing the province of Ontario were to some extent based upon the relative unimportance of the total traffic carried by trucks in relation to the total freight movement in Canada, and statements were made to minimize the volume moved by highway and the loss to the railways as a consequence.

It is suggested that the effect on the railways of competition from highway transport has been misunderstood. The total effect is made up of the sum of three items: First, the measure of traffic actually diverted to the motor vehicle; second, the total effect in dollars upon the rate structure of the railways as a result of their attempts to meet uneconomic competition by tariff adjustments; and, third, newly developed traffic, incapable of estimate, which the railways might have enjoyed if the motor vehicles were not a factor. The sum of the

first two items has been estimated recently by the Bureau of Economics of the Canadian National Railways at some \$38,000,000 per year, which is over 16 per cent of the total freight revenues of the Canadian railways for the year 1935. A large proportion of this total would represent loss in net revenue.

There was some question as to the amount of net involved in that \$38,000,000. If the traffic that we have lost to the highways moved at the average revenue per ton mile that we receive for all traffic, the loss in net would have been \$34,000,000 out of the \$38,000,000.

Even this percentage does not reflect the whole situation, inasmuch as the great bulk of railway freight is low grade or moves long distances and is not open to competition from the highways; in fact the figure previously quoted is a very large percentage of the revenue from higher grade commodities upon which the railways must depend in order to obtain a rate in some measure compensatory for the low rates received for the carriage of the bulk commodities.

(2) In dealing with section 14, subsection 4, counsel for the Province of Ontario at page 140 of the proceedings suggested that this provision would give the Minister the duty to prescribe routes which was impossible of fulfilment, because it was suggested that the provincial licensing boards were the only people who could possibly take into consideration the factors of "the amount of traffic, the nature of the route, the weight of metal, the size of bridges and many other things." It is suggested that the only matter before provincial boards on applications for licences is that of public convenience and necessity and that they do not in practice determine such applications from the standpoint of the quality and character of roads over which the applicant proposes to operate. The objection is therefore entirely without substance.

(3) A further suggestion was made that there was power in the Bill to prescribe the loads which might be carried upon provincial roads. No such power is conferred by the Bill. In any event it must be assumed that neither the board nor the Minister intends to violate any of those matters with respect to which the provinces only are concerned.

(4) A very considerable amount of emphasis was placed on the claim that adequate provincial regulations are now in existence in all provinces of Canada. As a matter of fact the Province of Nova Scotia, while it has provision for regulating commercial highway freight transport, has not made any attempt to enforce it either by licensing or otherwise. At the present time in the Province of Prince Edward Island there are no regulations controlling the activities of the for hire carriers. In the Province of New Brunswick control of the highway transport has been so far limited to common carriers and their present provision for rate regulation is not enforced. In the Province of Quebec under their present system of control, approximately 5,000 for hire truck licences are in effect and each of these is free to operate anywhere in the province quite without regard to the transport facilities required in any particular area or district. In Ontario the growth of the number of public commercial vehicles under licence has been such during the depression years as would hardly be warranted by the requirements of the traffic offering. This is evidenced by the fact that in 1928 only 945 P.C.V. licences were issued whereas in 1936, with less traffic moving, approximately 5,000 P.C.V. licences were issued.

One point was made before the Senate Committee that the two largest provinces involved and having the greatest proportion of highway traffic, had agreed upon a means to control the interprovincial movements. As stated by counsel before the Committee, this agreement was that an equal number of operators from each province should be licensed. On the face of it, any such agreement based upon an equality as between the residents of the different provinces, overlooks the fundamental questions of traffic requirements and competitive conditions.

Such an agreement seems an admission that some action is necessary to control interprovincial traffic and the means now taken by the provinces are a negation of the proper principles to be applied.

The three Prairie Provinces have regulations which vary in many respects. In Saskatchewan the licensing body does not in practice hold public hearings so as to permit representations to be made on behalf of other forms of transport when applications for licences are being disposed of.

Throughout all the provinces there are very marked differences in regulation and one of the objections to this Bill involves the difficulty of an interprovincial operator having to deal with different jurisdictions. Undoubtedly he has this difficulty to-day and it seems clear that one of the chief advantages of the Bill will be to induce a very much greater measure of uniformity and thus serve to minimize these difficulties.

(5) Counsel representing the province of New Brunswick objected to the licensing provisions of the Bill because it would impose hardship on a large number of residents of his province engaged in transporting goods from the Canadian to the American side and that the expense of obtaining a licence from the Transport Board would seriously interfere with their means of livelihood. It is a fact that if these men transport goods for hire from New Brunswick to the American side of the border they now are required to obtain from the Interstate Commerce Commission certificates of convenience and necessity after a personal attendance and hearing of the case. As it now stands, therefore, the only body which has complete jurisdiction over these international operators is the Interstate Commerce Commission and it is a fact that in the same province there are bus operations being carried on which originate in the United States and continue through to the province of Nova Scotia without having the question as to whether they should be licensed, reviewed by the Motor Carrier Board of New Brunswick.

(6) Another objection was raised by representatives of Automotive Associations that they were satisfied that (Page 191) "there is now sufficient machinery provided for the regulation of the industry under provincial authority." The same industry made a submission to the province of Ontario in 1934 when the regulation in that province was substantially the same as it is to-day using the following words: "The condition of the motor transport business in Ontario is anything but healthy at the present time. The virtue which motor transportation has of requiring a relatively small investment per unit becomes with lack of proper regulation, a vice. Too many people go into the trucking business for hire, unbridled cutthroat competition follows, rates are slashed below the cost of service with the result ultimately that the public gets poor service; the operators go into bankruptcy; the employees are inadequately paid; the railways are confronted with unfair competition; regrettable accidents happen and everyone concerned suffers. This cutthroat competition has demoralized motor transport in Ontario and now truckers and shippers alike are demanding that something be done at once to correct these evils." The submission further points out some of the evils which exist; refers to the payment of wages to married men of as low as \$6 per week for a twelve hour day and asserts that these same employees are forced to apply for relief. It goes on to quote instances of rate slashing, in one case as follows: "On September 25th last. A Class "E" milk and dairy operator paying a P.C.V. licence fee of only one dollar quoted 20 cents per 100 pounds on 24,000 pounds against a fair normal rate of 34½ cents per 100 pounds."

While this admittedly refers to conditions in 1934, the evidence of Mr. Pape, who appeared for the Automotive Transport Association of Ontario, strongly suggests at page 201 of the Proceedings, that the industry is still suffering from the same lack of adequate regulation.

By way of further example it may be stated that in the Province of Alberta several truckers who admitted costs of 15 cents a mile, are operating under contracts at rates which would return them only a gross revenue of from 7 to 9 cents a mile.

(7) A number of those appearing before the Senate Committee objected to the control of highway transport provided by the Bill on the ground that it would demoralize the industry and that the English Road and Rail Traffic Act had had the effect of strangling highway transport. This involved two questions, that of licensing systems and the effect of agreed charges. The last mentioned will be dealt with under Part VI of the Bill.

As to the licensing provisions, Counsel for the Gray Coach Lines on pages 169 and 170 referred with approval to the Road Traffic Act of Great Britain and the considerations which attend the issuance of licences under that Act. An examination of the provisions of the Road Traffic Act, which it must be made clear applies only to buses and not to trucks, will show that there is no substantial difference in principle between the licensing provisions of this Bill and those in England.

The only statements as to the effect of the licensing provision of the Road and Rail Traffic Act on highway transport which can be said to have been authoritative and unbiased are those contained in the report of the licensing authorities at the conclusion of the first two years of operation under the Act. Following are statements contained in the reports of those licensing authorities:—

- (a) "Established hauliers with whom I have come into contact look to the future with considerable optimism."
- (b) "I think that already there is an appreciation in well-informed circles of the advantages which should accrue to the haulage industry by the licensing system now in force."
- (c) "The effect of the Act has been to stabilize the industry."
- (d) "Generally speaking I think more reputable carriers welcome the Act in the expectation that the unhealthy competition which has existed in road transport for years may be eliminated."

When carefully analysed the objections to the highway transport provisions of the Bill will be soon entirely to come within one main category, namely, the fear that the Act will be improperly administered. That evils exist and that regulation is desirable is generally admitted. It cannot be too forcefully said that with the principle of regulation admitted as desirable and with undoubted evils to be remedied, we ought not to give effect to any suggestion based upon the fear that the powers given in the Bill will be improperly used.

As an indication of one of the many evils which exist as a result of lack of regulation of highway operators, the following example is cited:—

In order to meet an actual case of competition from highway vehicles, a railway company reduced a rate on a certain commodity between two points from 47 cents to 30 cents per 100 pounds. As railway rates are published, the truck operator, threatened with loss of business, at once reduced his rate below 30 cents. Despite the existence of a clear understanding that this rate reduction would be satisfactory to the shipper for movement on the railway, the shipper at once resumed movement by truck. The railway company, feeling itself unable to offer a further rate reduction, cancelled the 30 cent rate. The shipper then objected to this action, on the ground that it would permit the trucker in turn to increase his reduced rate above the cancelled 30 cent rail rate. The railways are constantly being confronted with situations of this character.

The lack of publicity for competitors' rates leaves the railways unable to measure the degree of competition which they are meeting. On the other hand, the publicity given to railway rates means that, even though shippers

have no intention of using rail transportation, they are constantly pressing for a reduction of the rail rates, in order to give them a lever in bargaining with highway transport operators.

In conclusion it perhaps should be pointed out that the Counsel appearing before the Committee, notably one representing one of the major motor bus companies, in support of his case at pages 164, 165 and 166 of the proceedings quoted a number of paragraphs which were said to have been part of the Duff Report. The fact is that the quotations referred to are not findings of the Commission at all. They are part of an appendix expressing the views of various highway authorities and those engaged in the motor transport industry as will be seen by reference to Paragraph 162, of the Report where the Commission says—

In an appendix to this Report we have included a chapter giving statistics of highway transport in Canada and information as to the fees charged and the regulations imposed by provincial governments, together with a summary of the views submitted to us of various highway authorities and of those engaged in the motor transport industry.

The CHAIRMAN: That would be like our record.

Mr. ALLEN: Yes. Now Part VI, agreed charges.

Hon. Mr. CALDER: Mr. Chairman, before Mr. Allen passes on to the next subject, don't you think it might be well to have questions directed to him on the ground that he has already covered?

The CHAIRMAN: All right.

Hon. Mr. CALDER: I want to put a question. You state, Mr. Allen, for example, it is estimated that the total loss to the railways on account of highway traffic amounts to \$38,000,000.

Mr. ALLEN: Yes, sir.

Hon. Mr. CALDER: If for the moment we assume that this Committee would not approve any attempt to take control of all the highway traffic in the provinces, would you have any means of estimating what the loss would be if the figures applied only to interprovincial traffic? Your \$38,000,000 covers all traffic carried by the highway.

Mr. ALLEN: Yes, sir.

Hon. Mr. CALDER: Now, suppose we agree only to having the Bill apply to interprovincial traffic,—

The CHAIRMAN: And international.

Hon. Mr. CALDER: Yes, and international. You see that would materially affect the question of loss, would reduce it enormously, I should think, because the great bulk of that \$38,000,000 must be made up of traffic purely provincial.

Mr. ALLEN: It must be.

Hon. Mr. CALDER: There is one other question I should like to ask, because it was brought up in a conversation I had. Perhaps Mr. Howe can deal with it. There were two points raised. The person in conversation with me said, "Well, the truck owner is going to object to paying a federal tax for this interprovincial traffic." I said to him, "It is only a question of a licence, and the licence fee will be nominal." He said, "No, you have no evidence to that effect. There will be a tax, and it will be heavy." What is the position?

Hon. Mr. HOWE: I think I put on record this morning the fact that it would be only a nominal fee to cover the cost of issuing the licence.

Hon. Mr. CALDER: That is what I thought. There is one other question. It was pointed out the other day that a manufacturer might have a plant in, we will say Hull, and another here in Ottawa, and use his own truck in carrying

his commodity from one plant to the other. This Bill would not apply to a privately-owned truck engaged in the owner's own business?

Hon. Mr. HOWE: I think that is a matter which the Railway Board would have to investigate before the law is applied in that way. It is intended for the contract carrier.

Hon. Mr. CALDER: If he carried only his own commodities from one of his plants to another, surely this Bill would not apply?

Hon. Mr. HOWE: That is an entirely different class of licence as recognized by the province. That is, he is a private carrier as against a contract carrier. I do not think the Bill could apply to him; in fact it would be difficult to apply.

Hon. Mr. COPP: I read not long ago a statement to the effect that in 1930 there was 2· something freight carried by trucks. I understood from your statement that at the present time it is about 16 per cent. Is that right?

Mr. ALLEN: I think, sir, the statement you read was probably attributed to a statement I made somewhere back around 1930, which was part of the traffic. If I remember correctly—I am only speaking from memory—it is tied up with 1,200,000 tons.

Hon. Mr. COPP: If that is the case, truck traffic is increasing very rapidly.

Mr. ALLEN: Undoubtedly, sir.

Hon. Mr. COPP: Can you tell us why truck traffic is increasing instead of railway traffic?

Mr. ALLEN: Well, sir, there is a large proportion of railway short-haul traffic which is vulnerable on a rate basis.

Hon. Mr. CALDER: It is like the old jitney. Anybody could run a jitney and carry a man for 10 cents. Finally the municipalities had to put all the jitanes out of business.

Hon. Mr. COPP: That would be the case if they are carrying it at a cheaper rate.

Mr. ALLEN: They are taking the cream of the traffic. At least, that is what we think they are doing.

Hon. Mr. LAIRD: Are there not some conveniences in service performed by trucks that cannot be performed by railways?

Mr. ALLEN: Undoubtedly there are some.

Hon. Mr. LAIRD: The public get the benefit of that.

Mr. ALLEN: I think undoubtedly there are places where trucks can give services which it would be very difficult for railways to give.

Hon. Mr. COPP: Does the railway short-haul business cover a certain number of miles?

Mr. ALLEN: It is only a relative term, sir. It cannot be defined.

Hon. Mr. McRAE: What would be the average of truck interference with railways on good roads?

Mr. ALLEN: At the present time?

Hon. Mr. McRAE: Yes.

Mr. ALLEN: That is a very difficult thing to answer, for we have truck interference up to 2,000 miles to-day.

Right Hon. Mr. MEIGHEN: Up to 2,000 miles?

Mr. ALLEN: Yes, sir. There are movements, partially international, from Winnipeg to the city of New York.

Hon. Mr. GORDON: You would not anywhere within Canada have to compete with trucks for 1,000 miles?

Mr. ALLEN: This service from Winnipeg to New York City is competitive with the Canadian railways to the New York border, and then it is competitive with the American railways from there to New York City.

Hon. Mr. McRAE: What class of freight was that?

Mr. ALLEN: I think frozen fish, or fish of some kind.

Hon. Mr. SUTHERLAND: Are the trucks not rendering a service which it would be almost impossible for the railways to give? For instance, in the province of Ontario, live stock is carried almost entirely to-day by trucks. They will take the stock from the farm, instead of it having to be driven eight or ten miles to the railway station, and deliver it at the stockyards. Then, prior to the last six months if you were shipping cattle you had to take a full car. You could not get a half car. The trucks are providing a great convenience.

Mr. ALLEN: I think, sir, the railways could perform such a service as that.

Hon. Mr. SUTHERLAND: Why did they not give it?

Mr. ALLEN: I cannot say, sir. It may not be economic. I do not know what the reasons are.

Hon. Mr. SUTHERLAND: Why did they not give the half-car rate prior to the competition of trucks?

Mr. ALLEN: I cannot say, sir. Possibly the rate was so low that it would not have paid the railways to do so. I do not know what the situation was.

Hon. Mr. CALDER: Take an institution like Eatons, which has all sorts of trucks of its own on the highways. I can remember, when down in Ontario four or five years ago, seeing them doing business in all the towns and villages for probably a hundred miles out. Is it proposed to bring those private trucks under this scheme?

Hon. Mr. HOWE: I think they are all operating within the province. Of course we have no jurisdiction over that at all.

Hon. Mr. CALDER: If you had—

Hon. Mr. HOWE: I take it that there is no practical way of controlling a private carrier who owns his own truck and carries his own produce. You can set any rate you like, and he can carry it at that rate and take it off the price of the goods.

Hon. Mr. GORDON: It is not the intention to interfere anyway?

Hon. Mr. HOWE: No.

Hon. Mr. CALDER: The great bulk of the trucks on the highways are privately owned.

Hon. Mr. HOWE: Quite.

Hon. Mr. CALDER: So the \$38,000,000 of loss referred to by Mr. Allen would be very largely on the carriage of goods by privately owned concerns?

Mr. ALLEN: No, sir. When you say "very largely" we do not think so. We believe a great many of these private motor trucks are moving goods which the railways could not expect to move, because they are essentially short-haul movements. It is rather rare to find that a company has purchased trucks to do long-distance hauling. They are doing it, but it is the exception.

Hon. Mr. McRAE: In order to give an idea of the far-reaching effects of this, I may say that I have a recollection regarding certain stock-yards in the United States—I think it was Sioux City—where it was said that as much as 80 per cent of the stock was taken into the yards by truck.

Mr. ALLEN: I think we have statements showing receipts at the stock-yards and revenue receipts. I would be very glad to get the statements.

Right Hon. Mr. MEIGHEN: That figure of \$38,000,000, which is sixteen and a fraction per cent of the traffic, and which includes losses on traffic that you still carry, but at lower rates because of competition, will hardly be affected at all by any control of interprovincial traffic. Taking what is left and then eliminating the intra-provincial traffic, which undoubtedly is a gigantic per-

centage, is the balance of such dimensions that it could be described otherwise than as negligible?

Mr. ALLEN: That is quite a tall order to be asked for offhand.

Right Hon. Mr. MEIGHEN: Relatively it is awfully small.

Mr. ALLEN: I don't know. I am trying to visualize the contract operator and the common carrier.

Right Hon. Mr. MEIGHEN: You have to deduct also the private trucking that is done interprovincially. Take Eatons, Simpsons, Canada Packers, Swifts—all those companies that have business in Montreal and business in Toronto and who own their own trucks. You have to deduct that again. You have a territory so narrow that I do not know how you are going to get anywhere by occupying it. That, and nothing else, is what is troubling me.

Mr. ALLEN: Some of these trucks that you see with some shipper's name on them do not necessarily belong to the shipper. They are contract trucks operating with that shipper's name on them.

Right Hon. Mr. MEIGHEN: Why do they do that?

Mr. ALLEN: The vehicle is engaged possibly altogether in carrying that man's goods.

Right Hon. Mr. MEIGHEN: Eatons would never do that.

Mr. ALLEN: Oh, no.

Right Hon. Mr. MEIGHEN: And certainly Canada Packers have their own trucks. I do not know about Swifts. I think you are going to have a very small amount left.

Hon. Mr. GORDON: There are other companies which have their own fleets of trucks. I have in mind a company which has a fleet of its own in which it has invested \$250,000.

Mr. ALLEN: Do they operate interprovincially?

Mr. GORDON: No, all within the province. I understand from the minister that that situation will not be interfered with at all.

Hon. Mr. HOWE: Oh, no.

Hon. Mr. GILLIS: I know of one instance out West where a bus service is operated, and where the operators have an arrangement between themselves whereby they meet at the boundary between Manitoba and Saskatchewan and transfer the passengers. Would that be considered interprovincial operation?

Hon. Mr. HOWE: It is definitely an interprovincial movement. This Act would regulate that—any through consignment.

Hon. Mr. CALDER: If a man got out of the bus and slept at a hotel and walked across the border next morning and took the bus it would not be.

Hon. Mr. MACARTHUR: You have said that many of these companies operating trucks are operating at a loss. Do you believe that the increase from year to year will continue under present conditions, and do you think it likely that this Bill will cut down the number of trucks?

Mr. ALLEN: I cannot say whether it is going to do that or not. We were speaking of a condition in Alberta where those concerned were largely the operators of one or two vehicles. I do not think a company operating many trucks could carry on at a revenue of from 7 to 9 cents a mile.

Hon. Mr. MACARTHUR: Will they increase?

Mr. ALLEN: Will they continue to increase if this Bill is passed?

Hon. Mr. MACARTHUR: Yes, or without it.

Mr. ALLEN: Well, sir, I do not believe we have come to the end of truck highway competition. I cannot believe that we have yet.

Hon. Mr. MACARTHUR: It would seem to be increasing.

Mr. ALLEN: The trend has been that way. This may stop it. I cannot say what the effect is going to be.

Hon. Mr. MOLLOY: To what extent do the railways themselves use trucks for the purpose of bringing in business?

Mr. ALLEN: For pick-up and delivery do you mean?

Hon. Mr. MOLLOY: Yes.

Mr. ALLEN: Generally speaking, we are offering pick-up and delivery services at practically all of the larger centres throughout the Dominion. I have not a statement of the number of vehicles engaged in that work, but I could get it, sir.

The CHAIRMAN: That is a branch of your traffic department now?

Mr. ALLEN: Yes, sir.

The CHAIRMAN: Are you satisfied with what it is doing?

Mr. ALLEN: Yes, we are satisfied, sir.

The CHAIRMAN: Are there any more questions? If not, we will ask Mr. Allen to go on.

Mr. ALLEN:

Part VI—Agreed Charges:

Some objection was expressed to the section of the Bill permitting the making of "Agreed Charges." The objections in the main were as follows:—

First: That the provisions in the Railway Act contain adequate machinery for rate making to meet all competitive conditions. Therefore provision for Agreed Charges is unnecessary.

Since only interprovincial and international operations are covered by the Bill the various forms of transport in the province with which the rail carriers have to compete are free to make contracts with any shipper, either for a particular shipment or for a number of shipments extending over a period of time. Mr. Paton, appearing for the Automotive Transportation Association, said that only about 7 per cent of the highway carriers in Ontario had formal contracts, but he did not go so far as to say that the others had not the right, if they chose, to make contracts themselves or in fact that all of them do not make informal contracts. We hold that the competitors are free to make such contracts, if they choose to do so.

The difficulty under the present machinery offered by the Railway Act is that whether the railway rate be a special rate and as such open to the general public or whether it be a competitive rate, and as such open to the public within a competitive area, there is still left the competition produced by the ability of all other forms of transport to make contracts with individuals which they may definitely refuse to offer to the general public.

Hon. Mr. CALDER: That applies to ships as well, does it?

Mr. ALLEN: Yes, I think it applies to ships.

The second objection was that agreed charges would permit a large shipper to get a rate advantage over a smaller shipper.

It is wrong to suggest that Part VI of the Bill enables this to be done. There is no reason why the small shippers should not have the same advantage under agreed charges that would accrue to the larger shippers. There are ample safeguards in the Bill to prevent unjust discrimination between them.

The third objection was that the trucking industry say that similar legislation in England has resulted in the strangulation of the motor transport industry.

As proof of this they read a number of vague and somewhat irrelevant articles from a Journal called "Motor Transport", published in the interest of road transport in Great Britain.

A cable in response to a direct inquiry was received from the Secretary of the Research Department of the English Railways to the effect that since motor vehicle registrations had steadily increased in England, it could hardly be said, that any strangulation of the industry had resulted.

On the other hand, the real difficulty of the railways under the present conditions is that they are forced to give year-round service and as a consequence of the more seasonal operations on the highways and inland waters which are in competition with them, there is a large amount of traffic which they carry during only the winter months. There is nevertheless no reason why these other carriers should not enjoy the advantages of Agreed Charges and the lowering of handling cost which is available as a result. The Bill extends these privileges to them, if they are under the Act and, if they are not under the Act, they already have such privileges.

In addition to the above there were certain minor objections to the provisions of this part of the Bill:—

The first of these was that only carriers of the same class as those actually making an Agreed Charge may be heard in objection to it. They also object, that where an Agreed Charge has been made and a trader desires to obtain the advantage of an Agreed Charge from another carrier, that this benefit should be derived only, if the trader is prepared to deal with the carrier of the same class as the one actually making the Agreed Charge.

As to the proposal to permit carriers of all classes to object; if this were done, great hardship would result from the fact that the Board would have to hear objections by carriers whose economics and operating conditions were entirely different from those of the carrier of the class making the Agreed Charge.

As to the other branch of the objection, Sub-Section 5 of Section 22 involves the compulsory making of an Agreed Charge by a carrier, at the instance of the trader who considers that his business had been discriminated against as a result of making of an agreed charge. It appears necessary that the element of compulsion, as well as the right to object, should be restricted to carriers of the same class.

The second minor objection involved a misconception as to the level of the rates under an Agreed Charge to the effect that they must necessarily be materially lower than the existing rates.

As a matter of fact the Agreed Charges in practice have been at substantially the same charges as the shipper had previously paid for the transport of his goods by the various methods of transport he had engaged. His advantages are derived not so much from the lowering of rates as from the convenience of having a definite contract and his ability to quote prices with a fixed average transportation charge included. Certain advantages also accrue to the shipper from the fact that all his transport dealings are with one agency of transport.

If the criticism of the working of the Agreed Charges in England were as represented one would have expected to find that a great many of the original agreements would have been cancelled either on complaint or by shippers who are party to the agreements. In order to test the matter from this standpoint, cable advice from England was obtained as to some of the facts. The following may be of interest:—

503 contracts are now in existence of which 221 are new cases and 282 renewals on original or revised terms. Of these 282, 137 were

renewed on the old terms while 145 were renewed on revised terms. At the present time there are 39 proposed contracts awaiting approval of the Rates Tribunal. There are 804 offered by the railways to the shippers awaiting their acceptance. 34 of the original agreements were not renewed on expiration. There have been no agreements cancelled on complaint.

The fact that only a very few have not been renewed and that none have been cancelled on complaint is important evidence that even as here, where new ground was being broken, no real difficulties or hardships have developed.

Such a provision would go far to remove such obvious evils as were made the subject of an example under the heading of "Highway Transport" in which a shipper was cited as using the special published rates of the railways for his own advantage without assuming any obligation to use a rate which he, himself, had persuaded the railways to put into effect.

We are firmly in support of this part of the Bill as one of the essential measures to enable the railways and the other operators who come within it to compete with the large body of competitors who are outside the Bill and otherwise free to make the same arrangements.

The CHAIRMAN: Any questions of Mr. Allen?

HON. MR. SINCLAIR: May I pursue the point that was raised by Senator Molloy, in regard to pick-up and delivery service? Is your pick-up and delivery service carried on under agreed charges or a schedule of rates, Mr. Allen? You said that in the main centres you had a pick-up and delivery service at work. How do you carry on that service?

MR. ALLEN: I think, sir, it is all carried on at a rate per hundred pounds.

HON. MR. SINCLAIR: Would that service and the rates charged for it come under this Bill or not?

MR. ALLEN: Well, sir, as I understand it, those operations would be intraprovincial operations, and if this Bill does not apply to intraprovincial operations they would not come under it.

HON. MR. SINCLAIR: I understand your answer to mean that even your pick-up and delivery service with respect to goods that were being shipped by rail to other provinces, that is interprovincial traffic, would not come under the Bill.

MR. ALLEN: No sir. These people are our agents.

HON. MR. CALDER: Mr. Chairman, the figures Mr. Allen has given us with reference to the number of agreed charges contracts that have been made in Great Britain, are surprising to me. I had expected that in Great Britain, where the law has been in force for some time, the number of such contracts would have run into the thousands, and I thought, the same thing would happen in Canada. How long has that law been in operation in Great Britain?

MR. ALLEN: Since 1933.

HON. MR. CALDER: Three years or so. Yet the total number of contracts for agreed charges that have been made in that period is somewhere around eight hundred. That certainly is a surprise to me, and I must say frankly that I do not yet quite understand it. I will try to give an idea of my conception of this feature, which I consider one of the most important features of the Bill. The law at present provides that a railway company must file its rates. Now, with regard to any particular rate, any person may file an objection after which a hearing will be held and the Board will finally decide whether the rate is fair or not, and that rate will be approved or another one fixed. Under the present law the railway companies have a right to file any special rate they like, to carry any commodity anywhere in Canada, and that rate immediately goes into effect. The Railway Board is notified of the rate and publicity is given to it,

and if no person objects to it, that is the rate. Now, suppose I am a shipper and Mr. Allen, representing a railway company, comes to me and says, "Mr. Calder, how much freight are you sending out every year?" I say, "A very large amount." He says, "Will you let us know what your freight bill is for the year 1936, say?" I go to my accountant and I find that it amounts to \$150,000, all told, for shipments by railway, by boat, by truck, in every way. Then Mr. Allen says to me, "Why, we can carry your freight for less than that. There are a number of carriers who are looking after your freight now, but if you will let us handle it all we will give you a lower rate than you are now paying." Suppose I had been paying at the rate of \$10 a ton in 1936—I do not know whether that would be anything like a proper rate or not, but suppose, for purposes of discussion, that I was paying on that basis. Mr. Allen could say to me, "We will carry your freight next year for \$8 a ton." I see that is good business and I accept the offer, and enter into a contract with the railway. But by virtue of that contract, which is in my favour and apparently in the railway company's favour, every other carrier is shut off from the possibility of handling my freight, for all the business would go to the railway company. Now, I had an idea that if this provision for agreed charges was left in the Bill, there would be hundreds of applications from all parts of Canada for approval of contracts for such agreed charges. Now, Mr. Allen, where is that point of view wrong?

Mr. ALLEN: Well, sir, in the first place I do not think the railway would offer to carry your freight for \$8 a ton.

Hon. Mr. CALDER: That was just a figure stated for purposes of discussion. If I had been paying \$10 before, would a railway agree to carry my freight for \$8?

Mr. ALLEN: I do not think so, sir.

Hon. Mr. CALDER: Suppose that trucks and boats had been getting the bulk of the traffic before.

Mr. ALLEN: The question comes down to this: what is the value of your traffic to the railway? They are bound to be guided in their end of the agreement by the value of the traffic to them. Once they have determined what they are prepared to offer you, then that offer is subject to approval by the Board of Transport Commissioners, first, as to whether the railways should not have brought back this traffic to their rails by special rates.

Hon. Mr. CALDER: The Board must consider that?

Mr. ALLEN: I think that is in the Bill, sir; that is my understanding. And, secondly, it must consider the result of that traffic on the net revenue of the railway.

Hon. Mr. HOWE: I think, Senator Calder, you must keep in mind that the trucks and steamships can make any contract they wish to-day with a carrier, yet there are not many such contracts like you are referring to. The mere fact that anybody could make such a contract would be a deterrent factor.

Hon. Mr. CALDER: That must be the reason why so few have been made under the English law.

Hon. Mr. HOWE: Such a contract can only be made where it is not discriminatory. If a carrier, a railway, made a contract with you that was discriminatory so far as your competitor was concerned, the contract would not be allowed.

Hon. Mr. CALDER: Every one of these contracts for agreed charges must come before the Board?

Hon. Mr. HOWE: Yes.

Hon. Mr. CALDER: And the Board must take into consideration the question of whether the rate is reasonable so far as the railroad is concerned? And the other point that the Board must take into consideration is what?

Hon. Mr. HOWE: Whether the rate is discriminatory or not.

Hon. Mr. CALDER: And publicity would be given to these contracts?

Mr. ALLEN: Yes.

Hon. Mr. CALDER: And competitors would have a right to be heard in protest?

Mr. ALLEN: Yes, sir.

The CHAIRMAN: Would a railway make a contract for a lump sum without knowing what the rate would work out at?

Mr. ALLEN: I should not think so.

The CHAIRMAN: I told Mr. Mason that he would have an opportunity of reading a telegram which he has received.

Mr. G. W. MASON, K.C.: Mr. Chairman, the only reason I wanted to read this telegram right now is out of fairness to Mr. Allen, who stated that the truck rates are not being effectively enforced in New Brunswick. I sent a telegram to the Deputy Attorney General of that province, and this is his reply:—

Re telegram forty-nine hundred and sixty-five trucks in province thirty-eight hundred and forty-one were put on scales and weighed last year by special officer.

That is not in answer to my telegram, and I do not know the significance of it. This is the significant part:—

Truck rates are being effectively enforced in New Brunswick.

The CHAIRMAN: Is there any other person who wishes to be heard?

Hon. Mr. HOWE: I think we have covered the submission that we had for to-day. I might say in connection with port charges, the suggestion has been made that these references should be automatic, that is that any user of a Government facility should have the right to apply direct to the Board of Transport Commissioners for a revision of rate, and that the finding of the Board should be final and binding.

The CHAIRMAN: Is that in harbours?

Hon. Mr. HOWE: Yes. I think that is the ultimate aim, the point we should ultimately reach, and I hope that within two years we shall be able to do that. But I call your attention to the fact that only in October last the making of rates was put in the hands of the Governor in Council on recommendation of the Harbours Board. The rates were in a very chaotic condition. We had seven harbours in different sections of the country, and the rates at those harbours had been made by local harbour boards. We hope very shortly to get those rates reconciled so that they will stand an attack. I can say quite frankly that if a man to-day attacks a rate at Vancouver on the basis of a rate in Halifax, it would be difficult for the Harbours Board to defend their position. Where the rate situation is such that it obviously cannot be defended, I think it is important to have a reference, to have the matter referred to the Board by the Minister for the purpose of having an inquiry and obtaining the advice of the Board. I think a little time should be allowed to straighten out the rate situation before the reference goes automatically to the Transport Board. It is purely a case where we have not had time to get rates on a basis that they cannot be attacked as between one harbour and another. I simply make that explanation as to why the particular paragraph relating to port charges is worded as it is.

Hon. Mr. GRIESBACH: What paragraph is that?

Hon. Mr. HOWE: Part V, the entire section. I noticed some comment on it in the proceedings of the Committee.

The CHAIRMAN: You have heard the explanation of the Minister as to the ultimate aim to have these differences referred to the Transport Board; but in the meantime they will be referred, if necessary, to the Governor in Council.

Hon. Mr. HOWE: If the Minister wishes to do so he can refer the matter to the Transport Board for hearing, and in many cases he will do so.

Hon. Mr. CALDER: Mr. Allen, may I ask you one more question? There is a clause which gives the right to appear only to carriers of the same class.

Mr. ALLEN: That is true, sir.

Hon. Mr. CALDER: And you think the objections raised in connection with that are really not substantial. Would you explain again just why you hold that view? I did not quite catch your remarks at the time.

Mr. ALLEN: If you permit all carriers to appear as objectors, it is conceivable that every truck man who was affected by virtue of a very small portion of the traffic that could be moved under an agreed charge would appear in person, and it would clutter up the Board with a tremendous number of hearings. In addition to that, if these people are coming in as objectors, there is an implied duty for them to provide this service. Now, it is quite conceivable that carriers of a different class will have different operating costs under different conditions. Do you see what I mean?

Hon. Mr. CALDER: Yes.

Mr. ALLEN: A truck may pick up a small portion at an agreed charge.

Hon. Mr. GRIESBACH: The interveners must be of the same class.

Mr. ALLEN: Yes, because their economics are similar.

Hon. Mr. CALDER: Take this case. We will say the C.P.R. goes out and makes an agreed contract with the Ogilvie Milling Company. Then you give the C.N.R. the right to object, but you do not give the air man or the truck man any such right. That is what you mean?

Mr. ALLEN: That is correct.

Hon. Mr. CALDER: Or the steamship company?

Mr. ALLEN: Yes.

The CHAIRMAN: Gentlemen, this concludes the evidence. I do not think we shall be able to get very far with the details of the Bill to-night, particularly as the minister has stated that he has in mind several amendments to suggest. I assume he has not them ready now.

Hon. Mr. HOWE: No, I have not.

The CHAIRMAN: That seems to me to be reasonable. Shall we adjourn until Tuesday morning at 11 o'clock?

Some Hon. SENATORS: Carried.

The CHAIRMAN: As I understand, the Department of Transport will be here to give us any further explanations in detail as we deal with the Bill clause by clause, and the minister will endeavour to have his suggested amendments ready to meet some of our questioning.

The CLERK OF THE COMMITTEE: The following communications have been received:—

BURCHELL, SMITH, PARKER & FOGO

BARRISTERS, SOLICITORS, ETC.

HALIFAX, Nova Scotia, March 2, 1937

Mr. W. F. O'CONNOR, K.C.,
 Law Clerk,
 The Senate,
 Ottawa, Canada.

DEAR MR. O'CONNOR.—I have just received Volume No. 7 of the Proceedings of the Standing Committee on Railways, Telegraphs and Harbours, which contains Dr. Skelton's memorandum re foreign shipping treaties.

I have also read your remarks before the Committee at its sittings on February 25th, in which you quite correctly restate the off-hand opinion which I gave to the Committee at their request with respect to the position of old treaties under the Canada Shipping Act, 1934.

The legal position is, I think, quite clear.

Under Section 736 of the Imperial Merchant Shipping Act, 1894, which was the governing law in Canada until the Statute of Westminster, 1931, it was provided as follows:—

736. The Legislature of a British possession may, by any Act or Ordinance, regulate the coasting trade of that British possession, subject in every case to the following conditions:—

(c) where by treaty made before the passing of the Merchant Shipping (Colonial) Act, 1869 (that is to say, before the thirteenth day of May eighteen hundred and sixty-nine), Her Majesty has agreed to grant to any ships of any foreign State any rights or privileges in respect of the coasting trade of any British possession, those rights and privileges shall be enjoyed by those ships for so long as Her Majesty has already agreed or may hereafter agree to grant the same, anything in the Act or ordinance to the contrary notwithstanding.

Under Section 5 of the Statute of Westminster, 1931 it was provided that this section

shall be construed as though reference therein to the Legislature of a British possession did not include reference to the Parliament of a Dominion.

After the passing of the Statute of Westminster in 1931, Canada had complete control over its coasting trade.

With respect to treaties made before 1869, I think the position is quite clear as follows:

1. Up to the date of the passing of the Statute of Westminster, Canada could not denounce any treaty which was made before 1869 giving ships of any foreign state any rights and privileges in its coasting trade. Canada was bound under the provisions of Section 736 of the Imperial Merchant Shipping Act, 1894 to recognize these treaties so long as His Majesty in England agreed, or might, after the year 1894, agree to continue them in force.

2. Upon the passing of the Statute of Westminster, 1931, Canada had for the first time the absolute right to denounce these treaties.

The Canada Shipping Act, 1934 does not contain any provisions preserving the rights of any foreign ships under a treaty made by His Majesty, such as is referred to in Section 736 of the Imperial Merchant Shipping Act.

The question on which I was asked by the Committee to give an opinion was whether or not if there were such old treaties in existence, were they still

in force. The opinion which I gave was that if any such old treaty existed it was repealed by implication by the Canada Shipping Act, 1934 because the rights of any foreign ships under any treaty agreement were not preserved in that Act. The coasting trade was confined by the Act exclusively to British ships.

I note that in Dr. Skelton's memorandum he concurs in my opinion that legislation in consistent with the provisions of a treaty would prevail in the Courts but he quite properly adds that "the enactment of such legislation would be regarded by the other contracting party as being in itself a breach of the international obligation resulting from the treaty."

The mystery about the matter which appeared to exist in the minds of some members of the Committee appears to be completely cleared up by the statement in Dr. Skelton's memorandum that "no foreign state had by treaty the right to participate in the coasting trade of Canada."

In the latter part of his memorandum Dr. Skelton refers to the agreement between Great Britain and Sweden in 1826 and subsequently renewed in 1911 and 1913 between Great Britain and Sweden and Great Britain and Norway. I take it from Dr. Skelton's memorandum that this Convention did not give Sweden or Norway "any rights or privileges in respect to coasting trade" of Canada, within the meaning of those words as used in Section 736 of the Act of 1894.

The position is therefore that at the time of the passing of the Canadian Merchant Shipping Act, 1934, there were no treaties in force of the nature referred to in Section 736 of the Imperial Merchant Shipping Act, namely a treaty made before the 13th day of May, 1869 in which Her Majesty agreed to grant to any ships of any foreign state any rights or privileges in respect of the coasting trade of Canada.

This statement by Dr. Skelton should therefore entirely clear up the situation so that members of the Committee who were worrying about the matter can cease worrying.

The Canadian Act of 1894 did not contravene any treaty obligations because there were no existing treaties in respect of the coasting trade.

Yours faithfully,

C. J. BURCHELL.

GENERAL AIRWAYS LIMITED

PRESIDENT: A. ROY BROWN.

406 Bank of Hamilton Bldg.,
67 Yonge Street,
Toronto, Ontario,
March 2nd, 1937.

Right Honourable GEO. P. GRAHAM, P.C.,
Chairman,
Railways, Telegraphs and Harbours Committee,
Ottawa, Ontario.

DEAR SIR.—Evidence has been given to your Committee that Air Regulations of 1920 with its amendments are fit and proper regulations for the supervision of air transport, and again, that there was a serious need of enforcing these existing regulations. May I take this opportunity Sir, of pointing out to your Committee that these existing Air Regulations as referred to, are in my opinion, not fit and proper regulations, but in many cases are impractical and unworkable.

I am not going to burden your Committee, Sir, with any detailed analysis of these regulations, but I wish to mention just a few examples to explain my views.

Air Regulations 1920, part 12, No. 114, reads:—

“No passenger aircraft shall carry any explosives”

It is absolutely essential for a passenger aircraft to carry explosives in Northern Canadian operations. Otherwise, the mining properties developed by air in Canada could not have been carried on. Further, aircraft in northern use, must, to meet certain Departmental requirements carry a gun, rifle, or revolver, and fifty rounds of ammunition, so that the Department's own requirements in this instance forces every operator and every pilot to make a breach of air regulations.

I am only going to quote one more example of many that might be used. Air Regulations 1920, part 12, No. 118, reads as follows:—

“The pilot of every passenger, freight or commercial aircraft shall before taking off after every alighting enter in the aircraft log book the weight of the load carried. He shall be responsible that the load does not exceed that specified in the certificate of registration and that it is properly secured.”

It is practically an impossibility for a pilot when landing in the North away from the track, before taking off after every alighting to enter in the aircraft log book the weight of the load carried. There may not be a scale within hundreds of miles so that the best he can do is use his judgment or make a guess. Further, in landing on a lake where a rough sea may be running, it is impossible for a pilot to make log book entries before taking off.

Again may I suggest Sir, that the control of aircraft transportation be placed under a new Act, separate from all other means of transportation. I am entirely in accord with the Government's view of rigid control of air transportation, but to be effective and satisfactory, it would seem to me that it must apply to aircraft transportation only and be drawn up in a practical workable form.

Yours respectfully,

A. ROY BROWN.

*Memorandum of La Chambre de Commerce du District de Montréal
on Bill “B”*

MARCH 1st, 1937.

HON. GEORGE P. GRAHAM, *Chairman*,
Committee on Railways, Telegraphs and Harbours,
The Senate, Ottawa.

and
Hon. C. D. HOWE, P.C.,
Minister Transportation,
Ottawa.

GENTLEMEN,—“La Chambre de Commerce du District de Montréal” has taken communication of a proposed Act of Parliament entitled Bill “B” designed to establish a Board of Transport Commissioners of Canada, with authority in respect of transport by railways, ships, aircraft, and motor vehicles, which, in effect, would be the enlargement of jurisdiction of the Board of Railway Commissioners to comprise the regulation and control of railway, shipping, highway, and air transportation services.

(a) In respect to the principle of the Bill, “La Chambre de Commerce du District de Montréal” considers that it is sound and decidedly to the advantage of Canada to organize a Central Board—such as the Railway Board or one having the same prestige—whose function would be:—

1. to regulate and co-ordinate all transportation services;
2. to equalize within reason the conditions under which road, water, railway, and air services are provided in Canada, due consideration being given of course to their relative sphere of activities;
3. to eliminate unfair and uneconomic practices which are necessarily prejudicial to the general interest;
4. to promote co-operation when same is advantageous both for the public and for the companies themselves.

(b) In respect to transport by water, "La Chambre de Commerce du District de Montréal" approves, in a general way, the clause of the Bill, but it would like to see introduced in said Bill, a clause or clauses whereby Canadian interests would be protected against unfair international competition. This could best be done by having a clause which would establish a control similar or corresponding to the one established in the United States, so that the function of the Board would be exercised very much in the same manner, under similar procedure and with the same objective or policy.

(c) In respect to transport by road, "La Chambre de Commerce du District de Montréal" considers that it would be highly desirable that a Bill be adopted to create a control Board which would efficiently regulate transport by road.

The clauses in the Bill should be so arranged as to bring about co-operation from all the Provinces, and in such a way as to avoid confusion of jurisdiction and constant friction.

Clauses should be devised whereby provincial domain could reasonably be safeguarded whilst, at the same time, attributing to the Central Board effective control by which the pressing and acute problems connected with this industry could be solved and regulated in the general interest.

Attention is drawn to article 16. We believe that it should be efficient in bringing about a reasonable and prompt co-ordination of interest from all the provinces, and we see no objection why said clause should not be adopted.

It seems to us, however, that the question of licence should be so arranged, as to be as little disturbing to the public as possible. If one and only one licence could be issued, which would at the same time satisfy the requirements of the Province, as well as the Federal, it would be a very desirable condition of things, and we believe that the apportionment of revenues could easily be settled.

The matter of the permissible load allowed on the different roads, could safely be left to the discretion of the Provinces.

(d) *Transport by Air*

This is an industry which is still in its prime. In the opinion of "La Chambre de Commerce du District de Montréal" it should promptly be subjected to a Federal Board. The inconveniences should be very little disturbing.

(e) *Tariff*

"La Chambre de Commerce du District de Montréal" believes that some better equalization of rates between the several modes of transport is eminently desirable in the public interest. This cannot be obtained, except through the authority and regulation of a Central Board, hence the necessity of legislation like this one to implant it without delay.

General

(f). Even, if there are constitutional difficulties which may necessitate some more study and may require a certain amount of negotiation between federal and provincial authorities, "La Chambre de Commerce du District de Montréal" believes that this legislation should apply immediately to all cases where the services extend beyond the limits of the province. This would probably

be sufficient to start with, and in any case, it should result in bringing about a proper co-ordination of all services in the general interest, and secondly, it should force all parties interested to come to terms rapidly.

(g). Attention is here drawn to certain explanations given by the Minister in presenting said legislation, and which have been taken into consideration in the preparation of our memorandum.

1. that it is not the intention that regulation be applied in favour of any particular industry;
2. it is not proposed to change the existing regulation, as it is to-day applied to railways, but railways having now ceased to be the dominating factor in transportation, and on the other hand automotive industry growing more and more to be an important factor, it is desirable that corresponding regulation be established regarding this industry which is in direct competition with railways and shipping;
3. that there is a Bill now introduced in the United States Congress which is entirely parallel with the present one, as to the regulation of both lake tonnage and coasting tonnage, same to be under the authority of their Interstate Commerce Commission;
4. that it is not the intention to apply the regulation to coastwise shipping on the two oceans, unless a considerable portion of the industry demands it;
5. that the Government does not look for an increase in rates on transportation by water;
6. that in connection with highways, regulation of interstate traffic in United States has had a beneficial effect in said states, both in the industry and in satisfying the customers of the industry;
7. that the Bill is designed to extend an invitation to the provinces to place the control of provincial highway traffic under the Central Board.

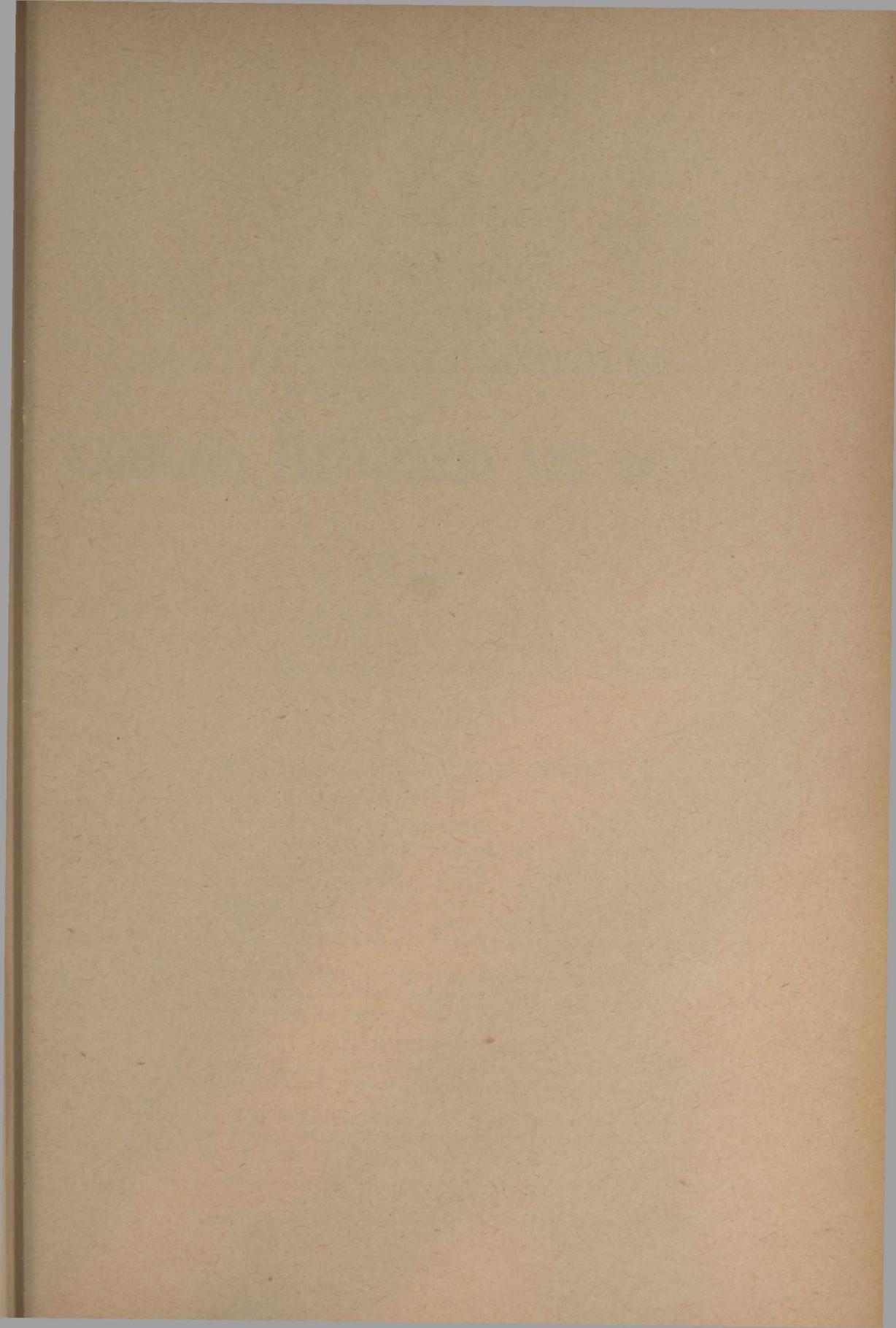
Respectfully submitted,

FOR THE TRANSPORTATION AND HARBOUR COMMITTEE,

(Signed) PAUL A. BEIQUE,

President Harbour Committee.

The Committee adjourned until Tuesday, March 9, 1937, at 11 a.m.



THE SENATE OF CANADA



PROCEEDINGS

OF THE

STANDING COMMITTEE

ON

RAILWAYS, TELEGRAPHS AND HARBOURS

ON

BILL B

An Act to establish a Board of Transport Commissioners
for Canada, with authority in respect of transport
by railways, ships, aircraft and motor vehicles

No. 9

The Right Honourable GEORGE P. GRAHAM, P.C.,
Chairman

WITNESSES:

- The Honourable C. D. Howe, P.C., M.P., Minister of Transport.
Mr. F. P. Varcoe, Counsel, Department of Justice.
Mr. W. E. Campbell, Chief Traffic Officer, Board of Railway Commissioners.
Mr. S. R. Brown, Manager, Traffic Department, Canadian Manufacturers' Association.
Mr. E. P. Flintoft, K.C., representing the Railway Association of Canada.
Mr. G. W. Mason, K.C., representing the Provinces of Ontario, Manitoba and Saskatchewan.
Capt. W. Ogilvie, Liverpool, N.S., representing Maritime Navigation Company.
Mr. J. K. Smith, representing Montreal Board of Trade.
Mr. J. P. Doherty, representing Lake Freight Association.

COMMUNICATIONS:

- Letter from Mr. James Mayor, President, Canadian Industrial Traffic League.
Letter from Mr. D. S. Ormond, representing Wings Limited and United Air Services Limited.
Telegram from the Vice President, Saint John Board of Trade.
Telegram from the Transportation Commission, Maritime Board of Trade.
Telegram from Mr. H. R. Silver, Halifax, N.S.

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PRINTER TO THE KING'S MOST EXCELLENT MAJESTY

1937

THE STANDING COMMITTEE ON RAILWAYS, TELEGRAPHS AND
HARBOURS

The Rt. Hon. GEO. P. GRAHAM, P.C., Chairman

The Honourable Senators

Arthurs	L'Espérance
Ballantyne	Logan
Barnard	MacArthur
Beaubien	Marcotte
Black	McDonald (<i>Shediac</i>)
Bourque	McGuire
Buchanan	McLennan
Calder	McRae
Casgrain	Meighen
Copp	Michener
Dandurand	Molloy
Dennis	Moraud
Farris	Murdock
Gillis	O'Connor
Gordon	Parent
Graham	Pope
Green	Rainville
Griesbach	Raymond
Haig	Robinson
Hardy	Sharpe
Harmer	Spence
Horner	Sutherland
Jones	Tobin
Lacasse	Turgeon
Laird	Webster—50.

MINUTES OF EVIDENCE

THE SENATE,

TUESDAY, March 9, 1937.

The Standing Committee on Railways, Telegraphs and Harbours, to whom was referred Bill B, intituled "An Act to establish a Board of Transport Commissioners for Canada, with authority in respect of transport by railways, ships, aircraft and motor vehicles," met this day at 11 a.m.

Right Hon. George P. Graham, Chairman.

The CHAIRMAN: When we adjourned last week we had concluded the hearing of evidence and decided that to-day we would commence going through the Bill clause by clause. The minister said that his department would have some amendments to present. Any proposed amendments, whether submitted by the department or anyone else, can be taken up as we go along.

On section 2—Definitions:

Clauses (a), (b) and (c) were agreed to.

On clause (d)—"Broker":

Hon. Mr. DANDURAND: Mr. Varcoe has a suggested amendment.

The CHAIRMAN: The amendment is to strike out the word "licensee" in lines fifteen and sixteen and substitute the word "carrier."

Hon. Mr. DANDURAND: Mr. Varcoe, will you explain why that change is suggested?

Mr. VARCOE: It is desired to enlarge the exceptional clause, that is the expression "other than a licensee or the bona fide employee of a licensee," to include railways as well as other transporters. The word "licensee" relates only to carriers licensed under this Act, and does not include railways. It is desired to extend the clause so as to include railways.

The CHAIRMAN: Clause (d), if so amended, would read:—

(d) "broker" means any person other than a carrier or the bona fide employee of a carrier who, as principal or agent, etc.

The amendment was agreed to, and the clause as amended was agreed to.

Clauses (e), (f) and (g) were agreed to.

On clause (h)—"Highway":

Hon. Mr. HAIG: There is a definition of "Dominion highway" and also of "Highway."

The LAW CLERK: "Dominion highway," whenever used, is always used restrictively.

Clause (h) was agreed to.

On clause (i)—"Interprovincial or foreign trade":

The CHAIRMAN: An amendment is proposed here, to strike out the word "or" in line 21 and substitute the word "and," to read "when the points of origin and destination are in different provinces" etc.

The LAW CLERK: The use of the word "or" there was a slip in the original draft.

Hon. Mr. BLACK: This definition still includes a great deal of transport which, I understand, is later to be eliminated from the provisions of the Bill.

The LAW CLERK: Yes, by other exceptions. These definitions have no force in themselves unless applied later on to some word in the main operative provisions.

The amendment was agreed to, and the clause as amended was agreed to. Clauses (j) and (k) were agreed to.

On clause (l)—“Motor vehicle”:

Right Hon. Mr. MEIGHEN: I should like to ask the leader of the government if he feels there is any justification, on the evidence submitted to the committee, for including passenger transport. I call to his attention the fact that in all the evidence submitted here, including the representations made by the minister, there was not anything at all submitted even favourable to, to say nothing of any reason given for, the inclusion of bus transfer that is interprovincial. All that the minister even argued for, was the including of truck transfer, which is a comparatively trivial proportion. But why include the bus?

Hon. Mr. DANDURAND: In the representations made I was impressed very vividly with the fact that the passenger business runs from one province to another and undercuts the railway passenger rates.

Right Hon. Mr. MEIGHEN: There was no evidence of that.

Hon. Mr. DANDURAND: Oh, yes, there was. I do not know whether you were present at the time, but we had it from the lips of the representative from Montreal of quite a large bus organization. He was asked, “Are you carrying passengers from Montreal to Ottawa at a rate cheaper than the railway rate?” He paused and answered, “Well, on the average it is about the same rate.” We expressed surprise. Then he qualified his answer by bringing in the week-end excursion rates of the railways. He said, “They cut under us.” And he added—and this is symptomatic—“Those excursion rates are getting too numerous.” The passenger bus rates necessarily run much below the railway passenger rates, because it is neither so convenient nor so pleasant to take a long journey in a motor-bus as in a railway car. As we all know, the railways make no money on their passenger traffic; only their freight business is remunerative. It is only by introducing attractive excursion rates that they can manage to maintain a certain ratio of return on their passenger service. The honourable minister is not here to tell us if that should be eliminated, but you have there the whole situation as between the railway and the bus system.

Right Hon. Mr. MEIGHEN: I would point out it is a terrific responsibility to assume to control bus rates in order to enable the railways to get higher passenger rates.

Hon. Mr. DANDURAND: The Minister says generally on this line that he was trying to stabilize the rates, not to fix a minimum rate.

Right Hon. Mr. MEIGHEN: I know that that is a fine phrase; but what principal object can be served unless it be to get a higher average rate? Otherwise we do not gain anything. I am not opposing the general principle, but I did not think any case was made for getting into this bus traffic.

Hon. Mr. DANDURAND: I do not know if bus traffic has been regulated in the United States, but I know of persons who travel daily between Montreal and New York by bus, submitting to all the inconveniences of night travel, stopping every hundred miles or so for meals and to exercise their cramped limbs. At New York motor-buses are available for trips as far south as Florida. This form of transportation is patronized simply because of the very low rates charged. There may be competition between these bus companies themselves. It seems to me that if we are to co-ordinate the whole transport system, we should have that regulation also. Of course, it is said, “It will have a tendency to raise the rates.” If the raising of rates will bring some kind of return to

services which we have established at a cost of hundreds of millions of dollars, and allow a fair wage to the bus employees, I think it is but just that we carry the motion.

Right Hon. Mr. MEIGHEN: I do not think the Minister of Transport realizes the terrific responsibility; but I hope the leader of the Government in the Senate does. At any rate he will do so in a year or two.

Hon. Mr. DANDURAND: Perhaps so.

Hon. Mr. BLACK: Does the Government know what the administration of this Bill will mean in the way of additional cost for enlarged staffs and so forth?

Hon. Mr. DANDURAND: That is a technical matter, and I would ask the Railway Board to give us an opinion with reference to it.

Mr. CAMPBELL: I do not think, sir, that in advance of this legislation I could express any opinion. It would undoubtedly mean a considerable increase in staff for licensing and dealing with certain matters to be taken into consideration before licences are issued. Then there would be a great many tariffs filed, which would involve a lot of work; but to handle this particular work I do not think the increase in staff would be very considerable. The principal cost would relate to licensing and supervision.

Hon. Mr. PARENT: You do not need men of extraordinary ability for the purpose; clerks could do the work.

Right Hon. Mr. MEIGHEN: I will just put on record this conviction, that the principal virtue of the Bill will be that it will not be put into effective operation at all.

Hon. Mr. HORNER: How would it be possible to control bus companies carrying passengers to within a few hundred feet of the border of a province? Those passengers could then walk across the provincial boundary and continue their journey in another bus. That transportation would be entirely outside the scope of this Bill.

Hon. Mr. PARENT: That happens between States in the United States also.

Hon. Mr. DANDURAND: That is a question of regulation for the Department to wrestle with.

The CHAIRMAN: Similar rate difficulties happen on the railways.

Clause (1) was agreed to.

On clause (m)—“Private commercial vehicle”:

The CHAIRMAN: There is an amendment suggested to this clause, to strike out the words “the transport of” in line thirty and substitute the word “carrying.”

The LAW CLERK: The object of that is to take away from this definition the technical effect of the use of the word “transport,” which is given a special meaning later on.

The amendment was agreed to, and the clause as amended was agreed to.

Clause (n) “Public commercial vehicle” was agreed to.

On clause (o)—“Ship” in general:

Hon. Mr. ARTHURS: I object very strongly to this clause. I am only voicing public opinion when I say that it is ridiculous to define a ship as any vessel not propelled by oars, and to put such ships under the control of a certain body in this city. This clause should be amended to include only the class of ships which at the present time are under the control of the Department of Marine as to hull inspection, and so on.

Hon. Mr. DANDURAND: This is but a definition.

Hon. Mr. ARTHURS: The definition is what I am after. If the clause is left as drafted it means the Government can control a canoe paddled across a river.

Mr. McDONNELL (Chairman, Board of Steamship Inspection, Department of Marine and Fisheries): It is the same definition as appears in the Canada Shipping Act.

Hon. Mr. ARTHURS: That does not improve it a particle.

Mr. McDONNELL: The answer, however, is that they are not controlling the ship itself; it is only the freight carried by the ship that comes under control.

Hon. Mr. ARTHUR: It is absolutely the same. We have in Ontario at inter-provincial points thousands of little motor-boats each run by the owner to take people across the lake or river. Under this Bill the man would be subject to control from Ottawa. It is absurd.

Hon. Mr. BLACK: I think that is taken care of further on in the Bill.

The CHAIRMAN: I will mark this clause, Colonel Arthurs, so we will have it in mind when we come across the matter again. This and the other clauses we are dealing with at the moment are only definitions.

Further consideration of clause (o) reserved.

On clause (p)—“Ship” Part V:

Hon. Mr. BLACK: I think the definition is entirely too comprehensive.

Mr. VARCOE: That definition is taken from the National Harbours Act, to which Part V relates.

Clause (p) was agreed to.

On clause (q)—“Toll”:

Hon. Mr. BLACK: Is any operation of the Bill confined to that definition of harbour tolls only?

Mr. VARCOE: Yes.

Hon. Mr. BLACK: All right.

Clause (q) was agreed to.

Clauses (r) to (u), inclusive, were agreed to.

On clause (v)—transport by rail:

The CHAIRMAN: We have an amendment here. Strike out the word “railway” in line 23, and substitute the word “company”.

The amendment was agreed to.

Clause (v), as amended, was agreed to.

Clause (w) was agreed to.

On subsection (2)—text to be read with R.S. 1927, c. 170.

Right Hon. Mr. MEIGHEN: What does that mean?

The CHAIRMAN: Well, I don't know.

Right Hon. Mr. MEIGHEN: I should like to have a philosophical disposition on the meaning of that subsection.

The CHAIRMAN: I do not know that we can get that.

Mr. VARCOE: The first part of this subsection is, of course, plain, I think. It says that unless the context otherwise requires, expressions contained in this Act shall have the same meaning as in the Railway Act.

Right Hon. Mr. MEIGHEN: It is the next part.

Mr. VARCOE: It continues:—

—this Act shall be read and construed as one with that Act, but shall have full force and effect notwithstanding anything contained in that Act.

That means that they are to be treated as legislation in *pari materia* for the purposes of construction. This Act adopts, as you will recall, by Parts II, III and IV, the provisions of the Railway Act *mutatis mutandis* for the purpose of the regulation under this Act, and it is thought necessary to provide that this Act shall be read and construed as one with that Act. A similar provision was inserted in the Farmers' Creditors Act where the provisions of the Bankruptcy Act were adopted. That provision was the subject of a good deal of argument in the Privy Council a few months ago, and the Privy Council supported the statute, to some extent at least, on account of that provision. It made it clear that they thought—

Right Hon. Mr. MEIGHEN: That it was bankruptcy legislation. And similarly they would hold, if there is any doubt as to this Act, that it is railway legislation. But I do not get just what it means to say the Act shall be read with it as one.

The LAW CLERK: It is a common enough expression.

Right Hon. Mr. MEIGHEN: That just means that I am mystified the oftener.

The LAW CLERK: There is no mystery about it. I suggest that what it means is this: you shall read it as if it enacted in it any provision of the Dominion Railway Act which is consonant with the terms of this Act.

Hon. Mr. DANDURAND: And not amended or modified by this legislation.

The LAW CLERK: Then it says that notwithstanding that, if there is any inconsistency between any of the provisions of this Act and the Railway Act, you shall read the provisions of this Act, rejecting those of the Railway Act.

Right Hon. Mr. MEIGHEN: I guess that is the best that can be done. I do not get very fully what the effect is.

Subsection (2) was agreed to.

On clause (e) reconsidered:

The LAW CLERK: Mr. Flintoft thinks there is a possibility of conflict between the provisions of clause (v) and clause (e).

Mr. FLINTOFT: I would just suggest that the clause (e) says that the word "carrier" shall include any railway or express company which is subject to the Railway Act. I would suggest striking out the words "railway or express" because there are sleeping car companies as well as railway and express companies. You have done this in clause (v) and I suggest that the same should be done in (e).

Mr. VARCOE: That is all right.

Clause (e), as amended, was agreed to.

Section 2, as amended, was agreed to.

Part I was agreed to.

On Part II, section 4, application of Railway Act, R.S. 1927, c. 170:

Right Hon. Mr. MEIGHEN: That is the essence of the whole Act concentrated into one paragraph.

Hon. Mr. DANDURAND: I move the adoption of this section.

Hon. Mr. BLACK: Where does the suggested amendment in regard to shipping come in?

Hon. Mr. HAIG: Does this clause mean that grain from Western Canada will be subject to a toll on the lake shipping?

Mr. VARCOE: The answer to that, sir, is that if this Act is applied to the Great Lakes then the carriers on the Great Lakes will be required to file their tariffs with the Board of Railway Commissioners.

Hon. Mr. HAIG: Senator Black suggested that there was going to be an amendment with regard to coastwise shipping on the eastern and western coasts, and that they would be exempted from this provision. Is there any reason why shipping on the Great Lakes should not be exempted from this provision?

Hon. Mr. DANDURAND: There is every reason why it should not. This very chapter is written in order to stabilize the rates on the Great Lakes down to Montreal.

Hon. Mr. HORNER: I was suspicious of that and that the whole object was to raise the rates.

Hon. Mr. DANDURAND: I said "stabilize."

The CHAIRMAN: Shall section 4 carry?

Hon. Mr. HAIG: No, not yet. There are certain parts of Canada that think this Bill is solely for the benefit of lake shipping; the leader of the Government has so stated just now, and I agree with him. This clause should be struck out. I am in favour of the regulation of transportation. Regulation of bus traffic is all right as buses are competing directly with the railways. But the boats are not, and the legislation can only benefit one or two shippers on the Great Lakes, and nobody else.

An Hon. SENATOR: Package freight.

Hon. Mr. HAIG: A little package freight, yes. The grain farmers of the West demand that this Bill be not applied to their commodity. For years and years we have had a row in the West about protecting the rest of Canada, and I ask that this clause as to lake shipping exempt grain.

Hon. Mr. DANDURAND: As I said, in a moment or two the Minister, Mr. Howe, will be here. He has given more than one explanation as to there being no question of fixing rates; that the parties fix their rates. But the public is interested in the stabilization of rates. This is to bring order out of chaos, and I do not think my honourable friend (Hon. Mr. Haig) will stand for chaos just because he thinks that through that chaos he may gain a cent.

Hon. Mr. HAIG: Mr. Chairman, here is the picture. Every exporter in the West is opposed to the control of rates on the lakes.

Hon. Mr. DANDURAND: And on the railways also.

Hon. Mr. HAIG: I am not worried about the railways.

Hon. Mr. DANDURAND: They are regulated.

Hon. Mr. HAIG: We all appreciate the trouble the railways are in. The best illustration of this that I can think of is when the fellows from Prince Albert came down to Winnipeg to ask Mr. Coleman to keep the passenger train on the run, and when he asked how they had come down, they said by motor.

Western Canada is shipping grain. You spent millions of dollars to get it out by Churchill, but the great part of it goes by the lakes. It is said that we may not have a big crop again. If we do not, God help Canada. I say that you should not do anything that will impose another tariff against Western Canada. This Bill means nothing if it does not mean that a tariff will be imposed, and every farmer in Manitoba and Saskatchewan—Alberta ships partly by way of Vancouver—is opposed to any arrangement which will put up a tariff against him. This is another attempt to put a barrier against the transport of our wheat.

Hon. Mr. HORNER: If this Bill is to prevent the operation of the law of supply and demand in connection with the carrying of our wheat there should be some legislation to prevent the operation of the same law in connection with the production. There can be no stabilization by limiting the legislation to the carrying only. We certainly object to stabilization that would apply only to carrying and not to producing.

Hon. Mr. HAIG: I move in amendment that the word "grain" be eliminated. That would include oats, wheat, flax—all grain.

The LAW CLERK: I wonder if it would help the honourable senator to know that later on an amendment will be proposed for giving power to exempt commodities from the operation of the Act?

Hon. Mr. HAIG: But I do not want to leave that to the commissioners.

The LAW CLERK: Perhaps this matter could be taken up more conveniently when that amendment is proposed.

The CHAIRMAN: Shall we leave this section until the Minister comes?

On section 5—Minister may license ships:

The CHAIRMAN: There is an amendment proposed to subsection (5), to strike out the word "or" on page five and substitute the word "and."

Hon. Mr. COTÉ: I am not a member of this Committee, so I cannot move an amendment to this section, but I intend to vote against the Bill if the section, as it is now worded, is left in. I cannot see the necessity of the licensing system for ships to stabilize rates. That would open the door to abuses. The section contemplates an innovation, something hitherto unknown to shipping in Canada. The Minister will not be able to give a licence unless someone rules that the proposed service is for the public convenience. That would mean the elimination of some ships for the benefit of other ships; it would restrict the number of ships that can ply on the Great Lakes. There is absolutely no necessity for this clause. If what is desired is an easier enforcement of the regulations, it will be simpler to say that anyone wanting to carry freight by ships on the Great Lakes shall register. The registration would become a matter of form; nobody could operate without registration, but everybody would be entitled to register. That would be quite simple and would avoid the objections I have just raised which I consider serious enough to induce me to vote against the Bill if the section is left as it now is.

Hon. Mr. CALDER: You would let ships go where they liked, if registered?

Hon. Mr. COTÉ: Yes; any ship could travel anywhere on the lakes, provided it was registered; and registration would not be refused a ship if it could pass the tests that are now required as to safety. There should be no authority to refuse registration. Of course the moment a ship was registered it would be subject to the Act, and thus subject to the tolls provided for under the Act.

Hon. Mr. DANDURAND: If you strike out this clause requiring licences you destroy the whole control over shipping. This is meant, I am informed, to limit the number of ships that may run from one place to another, especially when there are more than are needed. If licences are granted without any control, then there will be a continuance of the present situation where most of the companies are bankrupt and cutting one another's throats.

Hon. Mr. COTÉ: But the fact remains that it is absolutely unnecessary to limit the number of ships in order to fix or stabilize tolls. We were told that the primary purpose was to stabilize rates, not to achieve the object that Senator Dandurand has just mentioned.

Right Hon. Mr. MEIGHEN: Senator Coté, you have thought this out more fully than I have, but could this argument be advanced: that it is necessary to limit the number of vessels plying, say, between Montreal and Fort William, in order to stabilize rates at a low level, because only when these vessels are carrying full cargoes can they carry cheaply?

Hon. Mr. COTÉ: This contemplates approval of the rates by a board. The board would approve of rates which would be economical, there is no doubt about that. As to whether there would be too many ships on a route, or not,

that would be a matter for the operators themselves to decide. It would be a case of the survival of the fittest, as in any other business. May I point out to Senator Dandurand that we do not license trains under the Railway Act. Tolls are fixed, but trains are not licensed, so far as I know.

Mr. VARCOE: Senator Coté's objection might be met to some extent by an amendment which is proposed for a later part of the Bill, an amendment which would protect all persons now engaged in the business. That is to say, the amendment would require the Board to give a certificate in any case where the ship owner at the time of the coming into force of this Act is actually engaged in operating vessels.

Hon. Mr. HAIG: Would it not be well to tell us now what that proposed amendment is?

Mr. VARCOE: This is an amendment which it is proposed to make to section 29 of the Bill. That section is in Part VIII, which is a General part, applying to all the other parts. Section 29 provides for the determination by the Board as to whether public convenience and necessity exists. The proposed amendment is that the following be added to section 9, as subsection (2):—

(2) If evidence is offered to prove,

(i) that during the period of twelve months next preceding the coming into force of the relevant Part of this Act on, in or in respect of the sea or inland water of Canada, or the part of Canada, or the highway to which the application for a licence relates, the applicant was bona fide engaged in the business of transport, and,

(ii) that the applicant was during such period using ships, aircraft or motor vehicles as the case may be (hereinafter referred to in this section as "vehicles") for the purpose of such business, and,

(iii) the extent of the user of such vehicles including the capacity of the same to transport and the services maintained or performed by means thereof,

the Board shall, if satisfied with such proof, accept the same as evidence of public convenience and necessity to the extent of the user so proved and issue its certificate accordingly.

Hon. Mr. CALDER: Mr. Chairman, Senator Coté has raised a point that is new to me, at least. As I understand him, his point is that boats are not licensed, anywhere in the world; that when a boat is built and put in the water it can go wherever its owner pleases. Is that true? Are we proposing to start a new line of legislation here in Canada so far as the use of boats is concerned?

Hon. Mr. COTÉ: Absolutely.

Hon. Mr. CALDER: If so, we probably should go a little slowly. Suppose I build a boat and then want to use it. Before I can use it I must, under this Bill, apply to the Transport Board for a licence, and in determining whether I am entitled to a licence the Board must decide whether I should be serving public necessity and convenience by using the boat on the route where I intend to use it. Senator Coté points out that if the boat were registered it should be allowed to ply wherever I thought it could ply profitably. His point is that a licence should be given without question. In my opinion this is a very important question. We should be given some time to consider what the effect of this section would be. I do not altogether agree with my friend from Winnipeg with regard to the necessity for stabilizing rates. I think we must all assume that this law will be administered fairly and reasonably. He can rest assured that if it is not there will be next door to a revolution in Western Canada. God help the Government that does not see the law is administered properly.

An Hon. SENATOR: Hear, hear.

Hon. Mr. CALDER: So far as that feature is concerned, I have no doubt at all. May I ask Mr. Howe if elsewhere in the world they have a licensing system for boats such as is provided for in this Bill.

Hon. Mr. HOWE: Everywhere in the world ships are licensed for certain services. We issue licences to-day to permit boats to run on inland waters. We issue other licences to allow boats to ply on minor waters.

Right Hon. Mr. MEIGHEN: That is only from the standpoint of the capacity and soundness of the boat. It has nothing to do with regulation of traffic.

Hon. Mr. HOWE: I have here a Bill introduced in the United States Senate, containing the same provisions as we have here for licensing boats for specific purposes and for certificates of convenience and necessity. There is similar legislation in effect in Australia. There is nothing new in this provision.

Right Hon. Mr. MEIGHEN: Congress has not passed the Bill yet, and they never do so.

Hon. Mr. HOWE: No.

Right Hon. Mr. MEIGHEN: But the Australia Bill is in effect.

Hon. Mr. HOWE: Yes. There is nothing, as I see, very fearful about this Bill. We are trying to shut out one class of boats which, I think, everybody agrees should not come in here. I am referring to obsolete tonnage in the United States. Those boats are no longer able to meet the requirements over there as to safety. They are being sent over here and put into service in competition with boats, British-built and sea-worthy in every respect. It is a very bad case of competition, and is reducing the quality of our fleet. As long as those obsolete boats last they will carry as much grain as our properly built boats.

Hon. Mr. ARTHURS: Could they not be covered by the Steamship Inspection Act?

Hon. Mr. HOWE: It would mean a general revision of the Steamship Inspection Act, and to-day the condition of our shipping is not such that it can stand anything of the kind. As a matter of fact it would automatically put out of commission a considerable part of our fleet. The owners are not in shape to undertake the expense.

Hon. Mr. COTÉ: This is covered by subsection 6 of section 5, that no licence shall be issued, and so on.

Hon. Mr. HOWE: Yes, but it is all part of the licensing system.

Hon. Mr. COTÉ: I do not think you were here when I raised the point. I wanted to get rid of the certificate of public convenience, but, on the other hand, I would submit an alternative form of control, the registration of all ships that want to carry freight on the Great Lakes. That registration could not be refused unless the ship had failed to pass the Marine Department test. That ship would then be able to carry on trade on the Great Lakes subject to section 4 as to regulation of tolls. If that ship disobeyed the regulations under section 4, her registration could be cancelled.

Hon. Mr. HOWE: There is no great objection to that. A certificate of convenience and necessity would be useful in case a boat wanted to parallel an existing scheduled service. We have a line of boats running from Port McNicoll to Port Arthur carrying passengers. If another line was started in competition, the question of convenience and necessity might be properly examined. But I think under this Bill we are perhaps introducing a section that would allow every boat in Canada to-day to have a certificate. If a man were completing a freighter to put into general service, I do not think there could be any question raised of convenience and necessity. I would be prepared to limit the section so we could not refuse a boat in that service.

Right Hon. Mr. MEIGHEN: To give a concrete example, Mr. Howe, it is too bad a certificate of convenience and necessity was not required by law before the boats were built by the C.N.R. to compete between Vancouver and Seattle.

Hon. Mr. HOWE: Quite so.

Hon. Mr. CALDER: Under this law a man would hesitate before building a new boat. He wants to ply, we will say, a passenger boat between Quebec and Montreal. He builds a passenger boat, and then somebody must decide whether it is convenient and necessary to license that boat for that service.

Hon. Mr. HOWE: Don't you think the time to get his certificate of convenience and necessity is before he builds his boat?

Hon. Mr. CALDER: Can he do that?

Hon. Mr. HOWE: Certainly.

Hon. Mr. CALDER: Then he is in a sound position.

On Section 4—Application of Railway Act;

The CHAIRMAN: We will revert to section 4 at page 4. It is suggested that this measure is intended to increase the rates on grain.

Hon. Mr. HOWE: I think you will find from the statement of the Board of Railway Commissioners themselves that there is nothing in the Railway Act which tends to increase rates. A carrier files a rate. It can be changed only in case there is objection. Suppose you want to file a rate of one cent a bushel on grain from Port Arthur to Montreal: that is the rate unless somebody objects. I see nothing in this Bill that will raise rates.

Hon. Mr. HAIG: Would you have any objection if grain was exempted in this section? If your statement is correct that this Bill will not affect those rates, grain, that is, barley, oats, flax, etc., might very well be exempted from the operation of the Bill.

Hon. Mr. HOWE: You might as well say it will not affect rates on anything, and reject everything. If the United States require their ships to file rates between American ports, are you going to allow American ships, if not satisfied with rates there, to come over here and do all the damage they can for a month or two in the autumn?

Right Hon. Mr. MEIGHEN: Will the United States really control freight competition with us through the Erie canal, which is wholly subject to the jurisdiction of New York State?

Hon. Mr. HOWE: I think the Erie canal competition has always been magnified. They have had a rate as low as one cent a bushel, but I think the total freight carried under it was only 3,000,000 bushels. You might say our boats had to meet that rate of one cent a bushel between Buffalo and New York to get our grain to Montreal. But that rate was quoted because any boats up there have to get a return cargo, and they are willing to take wheat at a normal rate. I was told by one of the exporters who moved wheat that after he got it to New York he could not sell it. The effect of Erie canal competition as a factor is grossly over-estimated under present day conditions.

Hon. Mr. GILLIS: Can you control the rates on grain?

Hon. Mr. HOWE: If this Bill goes through boats will have to file tariffs for grain. They can make a downward change in three days; if the change is upward a month is required. That is the only regulation on grain rates. The boats control it themselves so far as I can see it.

Hon. Mr. HORNER: We had evidence before the Committee of the impossibility of complying with the three day requirement for filing rates.

Hon. Mr. HOWE: You had evidence that it is very necessary to have two rates for the same grain on the same boat. Who benefits? Does the farmer get any benefit from the lower rate on the last 100,000 bushels? It is just a form of chiselling on the part of the trade. It has nothing to do with the farmer at all.

Hon. Mr. HAIG: The grain trade is worked so closely that nothing like that is allowed to be chiselled. All that is considered in the picture.

Hon. Mr. HOWE: I have been working with the grain trade for the last twenty-five years and know something of the problem. I am of opinion there is nothing in this Bill that will increase the cost of moving grain from the head of the lakes to Montreal.

Hon. Mr. HAIG: Then if it won't benefit the boats, why not allow grain to be an exempted commodity?

Hon. Mr. HOWE: Because if you exempt grain I don't see why you should not exempt any other commodity, for instance, coal, as well.

Hon. Mr. HAIG: I think you should exempt grain because it is the main commodity.

Hon. Mr. GRIESBACH: I find it difficult to reconcile the statement you now make that there will be no increase of rates with the statement you made the other day that lake shipping is bankrupt. How can you remove it from bankruptcy without an increase of rates?

Hon. Mr. HOWE: I am not trying to remove them from bankruptcy entirely. I have tried to get the same public notice of rates on the lakes that we have on the railways. We have not removed the railways from bankruptcy by regulating their rates. I do not expect to do that with the boats, as such.

Hon. Mr. GRIESBACH: But if the Bill accomplishes its purposes, it is designed to remove those steamships from bankruptcy.

Hon. Mr. HOWE: Not at all.

Hon. Mr. GRIESBACH: That was one of the arguments put forward in favour of the stabilization of rates.

Hon. Mr. HOWE: They are bankrupt, but we have not stated that this Bill will take them out of bankruptcy. We have stated that we are trying to save them from unfair competition. We want to remove them from chaos.

Right Hon. Mr. MEIGHEN: If they stay in bankruptcy don't they stay in chaos? What is the difference between bankruptcy and chaos?

Hon. Mr. HOWE: The boat rates may be chaotic, but they will not be so chaotic as they are to-day if this Bill is enacted.

Right Hon. Mr. MEIGHEN: I cannot see how your argument works out. The chaos that I see existing is bankruptcy. That is the only chaos that hurts, anyway. If you do not remove the shipping companies from bankruptcy, how do you remove them from chaos?

Hon. Mr. HOWE: The only thing is this, a man will not be able to cut a rate one day and put it back the next day. There will be more stability to your rate structure.

Right Hon. Mr. MEIGHEN: There is an argument for that too, but it undoubtedly leads you to the conclusion that you are going to improve the position of the carriers.

Hon. Mr. HOWE: They evidently do not think so.

Hon. Mr. HAIG: Could the word "Minister" be struck out all through section 5, and the words "Board of Transport Commissioners" be substituted therefor?

Hon. Mr. HOWE: It could. The reason for leaving it this way is that the Minister issues certificates of safety, and we thought it better to have one licensing authority rather than two.

Hon. Mr. HAIG: But there is a great difference between the Minister licensing the boats and the Commission licensing them.

Hon. Mr. HOWE: You could make it mandatory on the Minister to have the recommendation of the Commission.

Hon. Mr. HAIG: It says:

The Minister shall not issue a licence without first being satisfied by certificate issued by the Board that—

and so on. He may not be satisfied.

Hon. Mr. HOWE: You could make it mandatory that he should accept the ruling of the Board, but I think it would be a mistake to have two licensing authorities.

Right Hon. Mr. MEIGHEN: That would be my objection.

The CHAIRMAN: Will you have an amendment for that purpose?

Right Hon. Mr. MEIGHEN: An amendment could be framed.

The CHAIRMAN: Now, what will we do with clause 4?

Hon. Mr. HORNER: Just a minute ago the Minister mentioned the variation from day to day of rates on the lakes. The boats are carrying a commodity on which there is a price variation to the producer of 5 cents in a day, 10 cents in two days, 5 cents in one hour. There is no stabilization in price, but there is an attempt to stabilize rates on the lakes.

Hon. Mr. HOWE: Do you think the two are very much related?

Hon. Mr. HORNER: I certainly do. If your whole interests were in producing grain you would think so too.

Hon. Mr. HOWE: It is a case of cause and effect. I do not think that because one trader can get a reduction of a quarter of a cent on rates the price of wheat in the country changes. I do not think the fluctuation in shipping rates is reflected in the price of the grain in the country.

Hon. Mr. GILLIS: It affects the producer to the extent of half a cent.

Hon. Mr. HOWE: The producer is not shipping down the lakes.

Hon. Mr. GILLIS: It is the producers' product that is being shipped.

Hon. Mr. HOWE: But he does not own it.

Hon. Mr. HORNER: I am afraid he does not this year. But this year the producers intend organizing and doing their own shipping. In that case they would be affected.

Hon. Mr. CALDER: Are we finished with clause 4?

Right Hon. Mr. MEIGHEN: We are holding 4 over.

Hon. Mr. CALDER: In clause 5 you state that the boats to which I referred could be licensed before construction. I do not see that in clause 5. It says:

The Minister may license ships to transport passengers and goods.

I presume that means existing ships, not ships to be constructed. It could easily be provided that the Minister could license existing ships, ships under construction, or ships to be built.

Hon. Mr. HOWE: That would be all right.

Hon. Mr. CALDER: I think that would be a very wise provision.

Mr. VARCOE: The certificate of public convenience and necessity is the thing the person requires before he builds the ship. It is not the licence. There are two different things, the certificate of public convenience and the licence given by the Minister. The first of these is provided for by subsection 5, and we thought we had provided that that could be issued before the ship was built or purchased.

Hon. Mr. CALDER: It is not so stated.

Mr. VARCOE: It says the proposed service is such as will be required.

Hon. Mr. CALDER: That is not at all clear.

Right Hon. Mr. MEIGHEN: But, senator, if a man intending to build a ship applies to the Board of Railway Commissioners and gets a certificate of public convenience and necessity, that is all he will need, because then he will know that if the ship is built in accordance with the regulations of the Marine Department he is bound to get a licence. Under the amendment Mr. Howe has already proposed the licence will automatically follow the certificate of public convenience, so that all a man will require to build will be the certificate from the Board of Railway Commissioners.

Hon. Mr. CALDER: Yes, but my point is that the provision in the Bill is not clear. It says:

The Minister shall not issue a licence—

Right Hon. Mr. MEIGHEN: That is to be changed.

Hon. Mr. CALDER: It says:—

The Minister shall not issue a licence without first being satisfied by certificate issued by the Board that the proposed service is or will be required by the present and future public convenience and necessity.

Right Hon. Mr. MEIGHEN: Then there is an amendment that on receipt of such certificate the licence shall issue.

Hon. Mr. CALDER: Yes. But if I want to build a boat, and I take up this law and find this provision before I ever start to build the boat, am I certain that I should go to the Railway Board first and have the question threshed out as to whether or not there is necessity for this boat on the route? This section is not clear on that point. It is quite true that it says just what you say, but I think it would be much simpler to state right in the Bill that before constructing a boat a person must apply for that certificate of public convenience and necessity.

Hon. Mr. HOWE: It seems to me the clause implies that, and that is the practice all over the country. If a man contemplates a service, he gets a certificate of public convenience.

Hon. Mr. CALDER: That is the practice now?

Hon. Mr. HOWE: I think so, yes, wherever there is a regulation as to convenience and necessity. However, we will study that and see if it can be made more clear.

Hon. Mr. GRIESBACH: This is a new principle?

Hon. Mr. HOWE: In Canada, yes. The certificate of public necessity is in use in the United States to-day in relation to aeroplanes and trucks, and it appears also in some of the provincial laws affecting trucks.

The LAW CLERK: If that is the only amendment, it could be made now.

Mr. VARCOE: The clause as amended will read as follows:—

The Minister shall issue a licence upon a certificate being issued by the Board that the proposed service is and will be required by the present and future public convenience and necessity.

Does that carry out the idea?

Hon. Mr. HOWE: I think the word "future" would cover it, senator?

Hon. Mr. CALDER: I did not catch the point.

Mr. VARCOE: The clause will read:

The Minister shall issue a licence upon a certificate being issued by the Board that the proposed service is and will be required by the present and future public convenience and necessity .

I call attention to the word "proposed." It is a future service.

The LAW CLERK: I think it would be clearer if we inserted the words "with respect to a ship being built or about to be built."

The CHAIRMAN: The section would have to be rewritten.

The LAW CLERK: If the idea were settled upon now the passing of the final draft would be a simple matter. Otherwise the discussion comes up again.

Hon. Mr. DANDURAND: How would the reading go?

The LAW CLERK: Mr. Varcoe can hand it in in about two minutes.

Mr. VARCOE: Clause 5:—

The Minister shall issue a licence upon a certificate being issued by the Board, with respect to a ship being built or about to be built, that the proposed service is and will be required by the present and future public convenience and necessity.

Right Hon. Mr. MEIGHEN: That is all right.

The LAW CLERK: Subsection 5 will be struck out, and these words will be inserted.

The CHAIRMAN: Yes.

The amended clause 5 was agreed to.

On subsection 6 of section 5, licence prohibited:—

The CLERK OF THE COMMITTEE: In line 3 on page 5, before the word "imported" insert the words "of a ship hereafter."

Hon. Mr. DANDURAND: "No licence shall be issued in the case of a ship—"

The CLERK OF THE COMMITTEE:—"hereafter imported." And strike out the proviso.

The LAW CLERK: The coasting provisions having been taken out of the Bill the proviso becomes inoperative.

The CHAIRMAN: The section will now read:—

No licence shall be issued in the case of a ship hereafter imported into Canada which was constructed more than ten years before such importation.

Hon. Mr. HARDY: Mr. Chairman, what is the object of that subsection? I can very well imagine that ships much more than ten years old might be imported into Canada and be much more serviceable than some ships less than four years old which we have on the lakes to-day. I suppose most moderate sized ships are imported from the United States. A boat that was built for very heavy traffic might well be far more seaworthy when ten years old than some brand new boats now on the lakes. Take for example the ferry boats that are operated on the Hudson river, where the traffic is enormous. These boats are built to withstand very great strain, and certainly they are in better condition after ten or twenty years than many of the makeshifts that are being used as ferries on our inland waters. One only has to go to the St. Lawrence river to see some wretched hulks in use, and I suppose the same thing could be seen on the St. Mary's river. Many of these boats should never be licensed for any kind of passenger traffic at all. I think this subsection is too restrictive.

Hon. Mr. HOWE: I may say, Mr. Chairman, that the subsection is designed to stop the particular abuse that has been especially bad in the last several years. We have had boats as old as forty years, I think, brought into Canada and put into operation; boats that have lost their certificate or are about to lose it in the United States are brought over here and run under our more flexible regulations. We are getting some atrocious tonnage on the lakes. I am concerned principally for the safety of the lives of the crew in urging this subsection.

Generally speaking, the effective life of a boat is considered to be ten years. However, if you want to substitute fifteen for ten years in the subsection, that might be a fair compromise. Of course, this does not apply to English boats; they can come in at any time under our treaty regulations.

Hon. Mr. COPP: I had a similar thought to that of Senator Hardy in regard to this matter. Assuming I went to the United States to buy a boat, I might find one eleven years old in much better condition than another nine years old. I think it would be better to have a less arbitrary provision.

Hon. Mr. HARDY: This clause would not be objectionable if power were given to the minister to decide as to any ship that it was sought to import.

Hon. Mr. HOWE: I think that would be undesirable. In my opinion the rule should be automatic. Boats that are usefully employed in the United States are not brought into this country; we get boats that have lost or are about to lose their certificate.

Hon. Mr. BARNARD: How do American standards compare with Canadian standards?

Hon. Mr. HOWE: American standards are more rigid. Perhaps they are not as high, but they are more rigid. Take a boat that is rated in the United States at 200 pounds pressure for the boiler. We will rate it down to, say, 140 pounds and then admit it. But my understanding is that in the United States there is not the same flexibility, that in such a case if the boiler is not suitable for 200 pounds it will be out of commission.

Hon. Mr. HARDY: I would move that the word "ten" in this subsection be struck out and the word "fifteen" substituted. I can see the difficulties the minister refers to.

Hon. Mr. BLACK: Is that amendment desirable? Should we make it easy to import American boats that may not come up to a sound standard? It would be much better to have boats built in Canada, or in other British shipping yards. I think the limit of ten years, as provided in the subsection, is sufficient.

Hon. Mr. CALDER: As I understand it, Mr. Howe, your opinion is that ten years is the better limit?

Hon. Mr. HOWE: That is my preference, although a limit of fifteen years might stop the particular abuses we have in mind.

Hon. Mr. CALDER: In your judgment is it desirable that discretion should be left with anyone?

Hon. Mr. HOWE: No. I would rather have it absolute.

The amendment of Hon. Mr. Hardy was negatived.

The CHAIRMAN: It is understood that the latter part of the subsection, that is the proviso, is to be stricken out.

Hon. Mr. PARENT: Mr. Chairman, we have been discussing the words "or" and "and." It seems to me that the word "and" in the second line of the first part of section 5 should be changed to "or," and the words "or both" inserted.

The LAW CLERK: I think it would be better to substitute the term "and/or" in place of the word "and."

Hon. Mr. CALDER: I understand the courts do not know what that "and/or" really means.

The LAW CLERK: It is about time they should. It has been in all British bills of lading, used all over the world, for certainly one hundred years.

Hon. Mr. PARENT: That would be satisfactory to me. I move that the section be so amended, to read:—

The Minister may license ships to transport passengers and/or goods" etc.

The amendment was agreed to.

Hon. Mr. COTE: How does subsection 5 of section 5, as amended, read?

The CLERK OF THE COMMITTEE: It reads:—

The Minister shall issue a licence upon a certificate being issued by the Board with respect to a ship built or about to be built that the proposed service is and will be required by the present and future public convenience and necessity.

Hon. Mr. COTE: Then, under subsection 1 the Minister may issue a licence without a certificate. The structure of the whole section has been dislocated by the amendment to subsection 5.

Hon. Mr. HOWE: Subsection 5 makes it mandatory for the Minister to issue the licence referred to in section 1, does it not?

Hon. Mr. COTE: Yes. I am not quarrelling with subsection 5. But what I suggest is this, that section 1 states the Minister may license ships to transport, and nothing is said about a certificate of convenience. In subsection 5 there is an obligation to issue the licence when a certificate of convenience has been obtained from the Board; but there is no prohibition on the Minister, in section 1, against issuing a licence even if a certificate has not been obtained.

The LAW CLERK: You could overcome that objection by inserting in subsection 1, after the word "may" the words "subject to the provisions of this section," so that the first part of the section would read:—

The Minister may, subject to the provisions of this section, license ships, etc.

The CHAIRMAN: Section 5 as amended will now read:—

The Minister may, subject to the provisions of this section, license ships to transport passengers and goods from a port or place in Canada to another port or place in Canada.

Hon. Mr. FARRIS: I suggest that the Department redraft that section. If we insert amendments in this way we shall be apt to get into trouble.

Hon. Mr. DANDURAND: The Department knows the desire of the Committee and will see to it that the amendment is made in accordance with that desire.

Right Hon. Mr. MEIGHEN: I am satisfied with it now.

Hon. Mr. BARNARD: Before we leave section 5 I should like a little more consideration given to subsection 6. I rather gather from what Mr. Howe says that he has in mind principally the importation of vessels from the United States plying on the Great Lakes. It seems to me to be a pretty serious proposition to forbid the importation of British sea-going vessels if ten years old.

Hon. Mr. HOWE: This does not apply to British ships. Under treaty regulations we could not apply it.

Hon. Mr. HAIG: I should like to have the opinion of the representative of the Department of Justice.

Mr. VARCOE: I think the Minister of Transport means that a British ship is entitled to engage in the coasting trade without going through the formality of becoming a Canadian vessel, that is, being imported into Canada.

Hon. Mr. BARNARD: Suppose she is purchased by a Canadian company?

Mr. VARCOE: If she is to be imported into Canada, of course this provision would apply.

Hon. Mr. BARNARD: I submit not. I think it is ridiculous to say that sea-going ships if built in England have only a life of ten years.

Hon. Mr. HOWE: They can come over here under British registry and coast as long as they like.

Hon. Mr. BARNARD: They do not necessarily remain under British registry?

Hon. Mr. HOWE: I think they have every privilege under British registry that they have under Canadian registry.

Hon. Mr. BARNARD: I doubt it very much.

Mr. McDONNELL: I agree with Mr. Varcoe's statement if the vessel is imported. But there is no such thing as a ship of Canadian registry. A ship registered anywhere in the British Empire is a British ship.

Hon. Mr. GRIESBACH: But she may be of Canadian registry.

Mr. McDONNELL: I do not think there is such a thing, sir.

Hon. Mr. GRIESBACH: You have to indicate where the ship is registered.

Mr. McDONNELL: It is a loose way of speaking. What you should say is that a British ship owned in Canada, or a British ship which has been registered in Canada, is still a British ship.

Hon. Mr. BLACK: You can buy a British ship and carry on business in Canada just exactly the same as if you built her in this country.

Hon. Mr. CALDER: No matter how old she is?

Hon. Mr. BLACK: No matter whether she is one hundred years old. You do not have to change the registry at all. Is the Minister bound to grant a licence for such a ship?

Hon. Mr. BLACK: Just the same as if the ship were built in Canada.

Hon. Mr. BARNARD: If the ship is more than ten years old?

Hon. Mr. BLACK: If she passes the marine test the Minister has to give a licence.

Hon. Mr. BARNARD: I should like to hear the Justice Department confirm that.

Mr. VARCOE: The statement made by Senator Black is correct, that the vessel can engage in the coastal trade without being imported into Canada.

Hon. Mr. GRIESBACH: But once she becomes of Canadian registry she is imported.

Mr. VARCOE: Possibly so.

Hon. Mr. GRIESBACH: That is what I am driving at.

Mr. VARCOE: I do not know what the test of importation is; I should think it would be registration.

Hon. Mr. HAIG: Could a ship from Liverpool, twenty years old, be put on the trade route from Vancouver to Victoria?

Hon. Mr. CASGRAIN: Age has nothing to do with it.

Mr. VARCOE: The answer is, yes, he can do it.

Right Hon. Mr. MEIGHEN: Senator Barnard's point still remains. You can import a ship into Canada, making it owned here. That is an imported ship, and section 6 applies.

Hon. Mr. HOWE: Half the ships we have on the lakes were brought out from England. There is no change; they do not enter through the customs.

Right Hon. Mr. MEIGHEN: Very good. I am afraid this section will go further than you will expect. It should be worded to show that it applies to importation other than from a British country.

Hon. Mr. ROBINSON: I would suggest that if you put after the word "ship" the words "not of British registry," it would settle the whole thing.

Right Hon. Mr. MEIGHEN: You are quite right.

The amendment was agreed to.

Subsection 6 as amended was agreed to.

On section 2, clause (o)—“ship” in general (reconsidered):

Hon. Mr. MORAUD: I should like to see paragraph (o) of section 2 amended to exempt small boats.

Hon. Mr. HOWE: I suggest we exclude everything under 150 tons gross tonnage. That is what in the Department we call a ship.

The CHAIRMAN: Clause (o), as amended, will read:—

“Ship” includes every description of vessel exceeding 150 tons gross.

The LAW CLERK: If you add that qualification are you not going to be in trouble? Clause (o) is the definition in the Shipping Act.

Hon. Mr. CASGRAIN: You should define tonnage. There are five different tonnages.

The CHAIRMAN: We shall get the right definition after the Law Department has considered it.

The Committee adjourned until after the Senate arises this afternoon.

EVENING SITTING

The Committee resumed at 5.30 p.m.

Right Hon. George P. Graham in the Chair.

The CHAIRMAN: We will now proceed with section 6 of the Bill.

On section 6, subsection 1—transport prohibited:

Hon. Mr. MURDOCK: Will that section prohibit people from being transported as passengers on a vessel of less than 150 tons?

Hon. Mr. BLACK: The definition of a vessel is a boat of 150 tons gross.

Hon. Mr. GRIESBACH: If she is under 150 tons she does not come under the Act.

Hon. Mr. MURDOCK: This says that she shall not carry them.

Right Hon. Mr. MEIGHEN: She is not a ship at all under this Bill.

Section 6, subsection 1, was agreed to.

On subsection 2—fines for infractions:

Right Hon. Mr. MEIGHEN: What is the effect of this, Mr. O'Connor? The fine can be less, can it not?

The LAW CLERK: “Liable to” means that it may be anything you want it to be. I noticed an earlier provision where the fine was \$1,000 and not less than \$100. I do not like the phrase “not less than.” It hampers the judicial authority. Under the words “liable to” the fine may be anything from a cent up.

Mr. VARCOE: It is a maximum penalty, not a minimum.

Hon. Mr. ROBINSON: “Whichever amount is the greater.”

The LAW CLERK: Suppose there were two passengers; \$400 would be the maximum. If there were three passengers, the maximum would be \$500, not \$600.

Mr. VARCOE: No, no. It is whichever is the greater.

Right Hon. Mr. MEIGHEN: If there are only two passengers the maximum is \$500.

The LAW CLERK: I had it reversed. In the case of the two it could be \$500 or \$400, and in the case of the three it could be \$600.

Right Hon. Mr. MEIGHEN: All I want to be sure of is that they do not have to impose the maximum. You do not use the words "not exceeding."

The LAW CLERK: The word "liable" will take care of that.

Hon. Mr. McRAE: Assuming that there were forty passengers—

The LAW CLERK: It would be forty times \$200.

Hon. Mr. HAIG: That is the minimum?

The LAW CLERK: No. It might be \$40, because he is only liable to that.

Hon. Mr. CALDER: If there is only one passenger what is the fine?

The LAW CLERK: It could be \$500 or \$200 or \$400. Very often there are more than one. You see, we have to write a section that will fit all cases. This fits one or two or a thousand.

Hon. Mr. CALDER: Suppose that he is carrying twenty passengers. I imagine that if you fix a maximum of \$2,000 and a minimum of \$500—

Hon. Mr. BLACK: The minimum is only a dollar.

The LAW CLERK: This is a fine per passenger. You could adopt a fine per ship and make it a specific sum.

Hon. Mr. CALDER: Why not let him know where he is at?

The LAW CLERK: It is a maximum limit. It might be suggested that with forty passengers it would be \$40.

Hon. Mr. HAIG: I cannot see where there is any minimum fine at all.

The LAW CLERK: There is no minimum fine but there is a maximum fine.

Hon. Mr. MCGUIRE: There is a discretion.

Hon. Mr. MORAUD: It is not mentioned.

Hon. Mr. COTE: Can you make it less than 50 cents a ton?

Hon. Mr. HAIG: If I were a magistrate I could find nothing except that I must impose a fine of at least \$500.

The LAW CLERK: He could reduce the 50 cents per ton under the same principle.

Hon. Mr. HAIG: It does not say that. It says, "Fifty cents per ton of the registered tonnage of the ship, or \$500, whichever is the greater."

The LAW CLERK: The 50 cents per ton could be reduced. If the tonnage is 50,000 you could see that there would be great scope for a reduction.

Hon. Mr. HAIG: Why not use the words "not to exceed"?

Right Hon. Mr. MEIGHEN: I think Mr. Haig is right. Even though you may give the proper legal effect to the word "liable" the magistrate may think he has to impose a fine of this amount.

The LAW CLERK: This is used in the Criminal Code.

Right Hon. Mr. MEIGHEN: Do they not use the words "not exceeding"?

Mr. VARCOE: I may say in explanation that there is a provision in the Criminal Code which is applicable to a prosecution under such a provision as this, and it gives the court discretion where there is an amount fixed by statute to award a lesser punishment.

Right Hon. Mr. MEIGHEN: That would not apply here.

Mr. VARCOE: The proceedings here would be under the summary convictions.

Hon. Mr. MORAUD: What is the objection to the words "not exceeding"?

Mr. VARCOE: None at all.

Hon. Mr. MORAUD: Then why not use them?

Mr. VARCOE: This is the language that was used in the Canada Shipping Act.

Hon. Mr. HAIG: My suggestion is that we use the words "not exceeding" after the word "fine" in lines 18 and 20.

The LAW CLERK: If you say "not more than" it will be all right.

The CHAIRMAN: You can fix it in whichever way is the better.

The proposed amendment was agreed to.

On subsection 3—detention of ships:

Hon. Mr. COTE: This is a most dangerous clause. I would never have dreamt of putting that in a shipping act in connection with inland navigation, unless the offence was one against safety. I can see the necessity of stopping a ship because she is not seaworthy, but here you give the collector the right to detain that ship on his personal belief that an offence has been committed. The offence may be that he has charged five cents too little on a ton of freight, and the detention of the ship for days seems to me most abnormal.

Mr. VARCOE: There is a proposed amendment which will permit the ship to furnish a bond and obtain an immediate release.

Hon. Mr. COTE: I should hope so.

The CHAIRMAN: Shall that carry?

Hon. Mr. COTE: Subject to an amendment to be brought down.

Mr. VARCOE: It will come in a later part of the Bill.

Hon. Mr. CALDER: You had better hold the clause until we hear about the amendment.

Mr. VARCOE: The amendment is to be inserted in the general part of the Bill, as section 33, and is to apply to Parts II, III and IV—shipping, aircraft and motor vehicles. The proposed amendment reads:—

33. All property seized or detained under the provisions of this Act shall be released or delivered to the person entitled to possession thereof upon a guarantee bond being given conditioned for the payment of any penalty duly imposed or the value of property forfeited by or under the provisions in this Act.

(2) Every such bond taken shall be for the use of His Majesty and shall be in such form as the Minister directs.

The CHAIRMAN: Is that satisfactory?

Hon. Mr. CALDER: I am trying to visualize the procedure if a ship is detained. Do they have to communicate with Ottawa as to the terms and the amount of the bond? You must not forget that this customs officer is detaining the ship on suspicion that an offence has been committed. Who fixes the amount of the bond? How long does it take to fix it?

Hon. Mr. DANDURAND: Is it not general?

Hon. Mr. CALDER: The trouble is that a Customs officer seizes because he believes that an offence has been committed. But no conviction has been registered.

Hon. Mr. BLACK: Does not the same condition exist at the present time? A Customs officer holds up a ship at a port because he believes it should be held up.

Hon. Mr. GRIESBACH: That is a case of a ship going abroad. But this has to do with ships on our lakes.

Hon. Mr. CALDER: I imagine that if a Customs officer made a mistake in this matter a couple of times he would no longer be a Customs officer.

Hon. Mr. COTE: I do not think that this subsection is required at all for the administration of the Act. The ships are plying their trade in Canada. They cannot hide; they are liable to seizure if convicted of an offence.

Hon. Mr. DANDURAND: We could perhaps pass this subsection and see how it works.

Right Hon. Mr. MEIGHEN: I should think that if subsection 4 is carried there would be no necessity for subsection 3.

The CHAIRMAN: What have you to say about that, Mr. Varcoe?

Mr. VARCOE: I may say that provision was taken from the corresponding part of the Canada Shipping Act, that is the part relating to the coasting trade.

Right Hon. Mr. MEIGHEN: That is a bigger and simpler matter. This is a matter of detail and rates, and to give a Customs officer power to impose almost infinite damage just because of belief is pretty severe. Why is this subsection necessary when subsection 4 provides that if any licensee is convicted of an offence his licence may be cancelled or suspended?

Mr. VARCOE: I should say it would be sufficient if limited to the offence of operating without a licence.

Right Hon. Mr. MEIGHEN: That would be all right.

Hon. Mr. HOWE: Yes, I think that would be all right.

The CHAIRMAN: It has been suggested that subsection 3 be made to apply only to operating without a licence. Is that agreed to?

The suggested amendment was agreed to.

The CHAIRMAN: An amendment will be drafted to cover that.

Subsection 4 was agreed to.

On section 7—Reasonable or just tariff:

Right Hon. Mr. MEIGHEN: Does that mean the Board cannot take into consideration anything other than what is specified here?

Hon. Mr. HOWE: No, I would not say that. I think it simply instructs the Board to take into consideration these factors with all others.

Right Hon. Mr. MEIGHEN: Is that the effect, though, Mr. O'Connor?

The LAW CLERK: I should say so. But I would suggest the insertion of the words "inter alia" after the word "consideration."

Right Hon. Mr. MEIGHEN: That would be satisfactory?

The CHAIRMAN: Is that amendment agreed to?

The amendment was agreed to, and the section as amended was agreed to.

On section 8—When this Part comes into force:

Subsections (1), (2) and (3) were agreed to.

On subsection 4—Repeal ss. 3, 4 and 5 of R.S. 1927, c. 208:

The CHAIRMAN: There is an amendment, that the last words of this subsection, "are repealed," be stricken out and the following substituted: "shall during such time as and in any place wherein this Part is in force be deemed to be repealed."

Right Hon. Mr. MEIGHEN: That is much better. I should like to know now what those sections are.

Hon. Mr. HOWE: They give the Board of Grain Commissioners power to fix maximum rates for the carriage of grain.

Right Hon. Mr. MEIGHEN: That is the old 1923 Act?

Hon. Mr. HOWE: Yes.

Right Hon. Mr. MEIGHEN: The whole of that might as well be repealed.

Hon. Mr. HOWE: You cannot have two jurisdictions.

Right Hon. Mr. MEIGHEN: Or perhaps we might wait a little while and repeal that Act when we are repealing the legislation that results from this Bill.

The amendment was agreed to, and the subsection as amended was agreed to.

The CHAIRMAN: It is proposed to add a new subsection, which would be subsection (5), reading as follows:—

The provisions of this Part shall not apply in the case of ships engaged in the transport of goods or passengers between ports or places in Nova Scotia, New Brunswick, Prince Edward Island or the Gulf of St. Lawrence east of Father Point, or between ports or places in British Columbia, or between any of the aforesaid ports or places and ports or places outside of Canada.

Hon. Mr. CALDER: What about the mouth of the Mackenzie river?

Hon. Mr. HAIG: Why not make it apply to the Great Lakes? Why should only the Maritimes and British Columbia be benefited?

The CHAIRMAN: Is the Committee in favour of extending the new subsection to cover the Great Lakes?

Some Hon. SENATORS: No.

The new subsection was agreed to.

Section 8, as amended, was agreed to.

At 6 o'clock the Committee adjourned until 8 p.m.

The Committee resumed at 8 p.m.

The CHAIRMAN: I have received the following letter:—

199 RIVER STREET,

TORONTO, March 6th, 1937.

Hon. GEORGE P. GRAHAM, P.C.,
Chairman, Senate Committee of Railways,
Parliament Buildings,
Ottawa, Ontario.

Hon. SIR,—With reference to the evidence submitted by the writer on behalf of The Canadian Industrial Traffic League, as appearing on pages 120 to 126 of Session No. 4 of Senate Committee on Railroads, Telegraphs and Harbours, the writer desires to amplify what he stated, having particular reference to Part 6 of the proposed Act before your Honourable Committee.

If ever there was proposed a mischievous piece of legislation it is that contained in this particular part of the Act.

If this is put into operation the whole business of the country would be in a constant state of turmoil. Instead of having confidence that industries were being fairly treated there would constantly be an atmosphere of mistrust. One industry would quietly obtain advantages over its rival, due to having better equipped machinery for securing these favours.

Transport concerns having immense capital behind them would be able to employ the highest legal talent to prevent their rivals or competitors securing such advantages, as you will note that transporting companies not of the same class are out of court in protesting against such deals.

Under our present regulations industry possesses the means of ascertaining if anything of an unfair or detrimental character is being done, and to find out the ground or basis upon which same is being

accomplished or undertaken, but under the proposed legislation all this would be under cover, and by no manner of means could one ascertain the basis for the agreed charge that might be instituted.

As pointed out in our evidence, under the present Railway Act, Sections 328 and 329 provide sufficient elasticity for all Canadian needs in the application of suitable freight arrangements for the requirements of the Canadian shipping public. Any additions thereto are, therefore, unnecessary and not in the interest of equitable, fair and just rate making, and should not be entertained by your Committee.

Notwithstanding the evidence submitted to your Committee on behalf of the Railroad Companies that the proposed legislation is working out satisfactorily, we submit that such statements are from the railroad point of view, but from the point of view of the shippers it is most unsatisfactory, as we previously pointed out in our evidence.

The measure of the rates to be paid for the movement of commodities should not be determined by a publicly owned corporation where the measure of control of expenditures is judged by the ability of the country to pay. The plight of the railroads to-day is due to a lack of foresight in their appreciation of the far-reaching effect of truck transportation.

To hamper the latter through too much government regulation is to turn the transportation clock backwards.

We must have progress in all forms of transportation, and concerns which render such efficient service as the Truck Transportation Companies can should not be thwarted in their efforts to do so by unwise interference of legislation designed to bolster up another form of transportation whose vision in the past has been decadent.

The industrial houses in Great Britain admit they were asleep when the legislation now being sought for in Canada was put over by the Railroads in the United Kingdom, and they are now endeavouring, through meetings of the various Chambers of Commerce throughout the country, to arouse public opinion sufficiently to secure an amendment to the Rail and Road Traffic Act of 1933 in order to set aside this particular feature.

The provisions of Sections 14 and 15 of Part 4 are permissive of very drastic regulations being made to the distinct disadvantage of highway traffic operation.

Realizing that industry to-day is dependent upon all forms of transportation etc., in the marketing of its products, reasonable rules therewith should only be permitted, and any provisions to permit of same should conform to the measure of regulation which experience and necessity deem to be desirable, as being necessary for proper operation of same, but under no consideration should the term "public convenience or necessity" be construed in such a way as to hamper or restrict one form of transportation to the advantage of another.

As stated by the writer, we believe in sane, moderate and wise regulation, but this Act, if adopted, would give the railroads the power to strangle every competing form of transportation, and experience proves that they would not be slow to exercise their privilege to accomplish this end once the permissive machinery was granted them.

On behalf, therefore, of the Canadian Industrial Traffic League, I trust you will give these particular features your careful and wise consideration before voting to adopt same.

Respectfully yours,

CANADIAN INDUSTRIAL TRAFFIC LEAGUE,

JAMES MAYOR,
President.

The CHAIRMAN: Suppose we take up Part III, Transport by Air.

Hon. Mr. HAIG: Before you proceed with Part III, Mr. Chairman, I should like to see Churchill included in the ports exempted.

On section 8, subsection 5 (reconsidered):

Hon. Mr. HOWE: You would like to include Hudson Bay?

Hon. Mr. HAIG: Yes.

The CHAIRMAN: Hudson Bay will be added to the list of ports to be exempted. Section 8, subsection 5, will now read:—

The provisions of this Part shall not apply in the case of ships engaged in the transport of goods or passengers between ports or places in Nova Scotia, New Brunswick, Prince Edward Island or the Gulf of St. Lawrence east of Father Point, or between ports or places in British Columbia, or Hudson Bay, or between any of the aforesaid ports or places and ports or places outside of Canada.

The amendment was agreed to.

The subsection as amended was agreed to.

The CHAIRMAN: Now, Part III, Transport by Air.

On section 9—application of Railway Act:

Mr. VARCOE: An amendment is proposed there corresponding to the one made in the corresponding section of Part II by the insertion of the word "any" in front of the word "person" in line 20.

The amendment was agreed to.

The section as amended was agreed to.

On section 10—Minister may license aircraft:

Mr. VARCOE: There will be an amendment made to section 10, corresponding to the amendment made in the corresponding section in Part II; that is, the words "subject to the provisions of this section" will be inserted after the word "they" in line 25. Also, in line 38 the word "or" is changed to "and."

Right Hon. Mr. MEIGHEN: Subsection 5 of section 10 is to be changed too.

The CLERK of the COMMITTEE: In line 38 the word "or" is changed to "and."

Right Hon. Mr. MEIGHEN: That does not keep it in line with the corresponding provision as to water shipment, as amended. You are not making it compulsory on the Minister to issue a licence if the certificate of public convenience is issued by the Railway Board. That is the point Senator Coté raised.

The LAW CLERK: I understood that there was a general direction to carry through like amendments. Is that the intent or is it not?

Right Hon. Mr. MEIGHEN: I thought it was. Of course it is for the Committee to say.

Hon. Mr. McRAE: Is there any amendment which applies to the northern air service? The "convenience" feature is always present, but the "necessity" is open to question. It seems to me you would have to be very generous—

Right Hon. Mr. MEIGHEN: The Minister says it is not intended to apply it to that service.

Hon. Mr. HOWE: We do not intend to apply it until the operators themselves ask for it. If they are satisfied with present conditions we do not intend to interfere.

Hon. Mr. McRAE: What I fear is that competitive services which are advisable for the development of that northern country may not be necessary, and I would hate to see anything in the Statute Book that would limit them. I do not like to put any incubus on that northern development.

Hon. Mr. HAIG: Why not strike out the word "necessity"?

Hon. Mr. McRAE: There is no necessity at all. It is a convenience for the men who go in and open up that country.

The CHAIRMAN: It is a necessity for development.

Hon. Mr. McRAE: It depends on what you call necessity.

Hon. Mr. ARTHURS: I think there should be an amendment there saying that this Act shall not apply to the northern country at all.

Hon. Mr. CALDER: The difficulty is to define the northern country.

Hon. Mr. ARTHURS: You could define it as being away from railway communication. It could be done.

Hon. Mr. McRAE: The Minister may receive a protest that a service is not necessary, but in that northern country you cannot apply the ordinary rules.

Hon. Mr. DANDURAND: I understood the Minister to say that he did not intend to regulate that service.

Hon. Mr. ARTHURS: Then, why not say so in the Bill?

Hon. Mr. DANDURAND: There may come a time when it should come under control.

Right Hon. Mr. MEIGHEN: It will not be for years, and then the Act could be amended.

Hon. Mr. HOWE: I doubt if it will be years. Already we have had applications to apply it where there are two or three services from a station on the railroad to one mine.

Hon. Mr. McRAE: It is irregular work. I think the operators will regulate their services as best they can, consistent with the demand.

Hon. Mr. GRIESBACH: How can you draw a section that would meet the situation?

Hon. Mr. HOWE: We could exclude certain territory north of the main line of the Transcontinental, if you like.

Hon. Mr. GORDON: I do not think that would do. Between the C.P.R. and the Canadian National there are certain aeroplane services that I think would be interfered with.

Hon. Mr. HOWE: I think it would be a serious mistake to exclude this territory, because some day it will be regulated. I can state quite definitely that we do not intend to apply the regulation until there is general application for it on behalf of both the aviation companies and the territories served; but I think the mines will find it uneconomical to maintain three or four services where one would do.

Hon. Mr. McRAE: There will be licensing for routes as soon as this comes into force. Companies will be here making application.

Hon. Mr. HOWE: We will not grant licences for routes unless they are inter-urban.

Hon. Mr. McRAE: But some other fellow comes in with a plane and wants to do work. Whether it is profitable or not it all helps the development of the country.

Hon. Mr. HOWE: This is intended to keep pace with a new service that is starting now—an interurban service—and we think it is important not to have lines paralleled by other services, but it is not applicable to the north country. It could be excluded, but I think it should be left in.

Hon. Mr. McRAE: Could you not confine it to interurban service to begin with, and then enlarge it?

Hon. Mr. HOWE: That would mean opening up the Act. The matter is entirely in the hands of the committee, but I would urge that the power be taken now to regulate when required.

Hon. Mr. CALDER: How would it be to bring that into force by proclamation?

Hon. Mr. HOWE: I think we could designate it as relating to interurban service. I think that would be the simplest way.

Hon. Mr. McRAE: I agree.

Right Hon. Mr. MEIGHEN: I think the draftsman would need to go over it, because you intend to license all aircraft anyway.

Hon. Mr. HOWE: Oh, yes. As a matter of fact, we have much more control under the Aviation Act than we exercise.

Right Hon. Mr. MEIGHEN: And the limitation of the interurban service is going to apply only to that kind of licence which applies as between cities.

Hon. Mr. DANDURAND: I would suggest that we trust the minister for the next three years.

Hon. Mr. McRAE: I do not like to see anything put in the way of the northern service.

Hon. Mr. HOWE: You are running into one very serious problem there, that of overloading. We have had two or three bad crashes because of overloading. We have grounded pilots for it.

The CHAIRMAN: Shall we confine this to interurban service or shall we trust the minister, whoever he may be, to see how the Act works out?

Hon. Mr. ARTHURS: You could insert the word "interurban" before the word "points" in line 26.

The CHAIRMAN: Shall we confine it to what is known as interurban service or leave it as it is?

Right Hon. Mr. MEIGHEN: I have no particular worry about leaving it as it is, but I think it is a good principle to have the legislation worded in the way in which it is intended to operate. I do not see how you can ever make this apply to these sporadic trips up north.

Hon. Mr. HOWE: There are a great many trips that are not sporadic. There are planes that, roughly, ply a route from a certain point on the railway to a certain mine, and carry mail, perhaps.

Right Hon. Mr. MEIGHEN: It seems to me that you can only apply the Act where there is a regularly conducted service. That is to say, if there is a regularly conducted service over a certain route you can possibly make the Act apply with benefit; but if the service is irregular or what you might call sporadic you cannot apply it.

Hon. Mr. HOWE: No. But of course there are a good many regular routes to the north. They carry the mails on certain days. Whether you would call that regular or not I do not know.

Right Hon. Mr. MEIGHEN: By a regular route I mean a route which the public can depend on. That is to say, they would know that a plane is going at a certain time on a certain day—a service that the public can rely on. If there is not that how can you say that some person else shall not come in and pick up people?

Hon. Mr. HOWE: You cannot do it.

Right Hon. Mr. MEIGHEN: If there is a mail route there is a regular service. I can see how you could go in on a route of that sort and say that every Tom, Dick and Harry shall not run on this route.

Hon. Mr. HOWE: That is the regular thing. There is no regulation to-day even for mail routes.

Right Hon. Mr. MEIGHEN: If I were the minister I would like to have the Act apply to regular services for whatever purposes they may be. Then there is some common sense to it.

Hon. Mr. HOWE: That is why I should like to see the Act left broad enough so that we can extend its application as conditions warrant. We would never extend it indefinitely.

Right Hon. Mr. MEIGHEN: Why not word it to provide that wherever the board reports that a regular service is being conducted, it shall be for the minister to license planes for that service?

Hon. Mr. HOWE: That would be all right.

Hon. Mr. FARRIS: Is "regular service" defined?

Right Hon. Mr. MEIGHEN: No. Let the board make its own interpretation.

Hon. Mr. FARRIS: In an Act of this kind could such a matter not be left to the discretion of the minister?

Right Hon. Mr. MEIGHEN: A court reading the Act should be able to say what the object is. The object is to protect regularly conducted services. You cannot go any further than that. The minister will have to apply his discretion after that.

The CHAIRMAN: Shall we accept the principle that this shall apply to interurban traffic—

Right Hon. Mr. MEIGHEN: I should not want to limit it to that, because there are regularly conducted services now which are not interurban at all.

Hon. Mr. DANDURAND: It will be some time before any place in the far north comes within the definition of urban.

The CHAIRMAN: I did not finish what I was going to say. Is the committee prepared to recommend that this apply to interurban traffic and to lines designated by the board as for regular traffic?

Right Hon. Mr. MEIGHEN: Where there are or should be regularly conducted services, in the opinion of the Board.

Hon. Mr. HOWE: I have no objection to that.

Hon. Mr. McRAE: Planes carrying air mail have a decided advantage now. Rates and other things come into question, and we might find there was no competition, that the only service was provided by the planes carrying mail.

Right Hon. Mr. MEIGHEN: We have to bear in mind the general spirit of the Act. What is intended is to regularize and stabilize the traffic where there is or should be a regularly conducted service. Beyond that we cannot go. Suppose there was somewhere an air mail service operating twice a week and the Minister thought there should be a more frequent service, he could license more planes.

Hon. Mr. HOWE: In some sections to-day there are two services, one carrying mail and one not. If you have three or four services you will make it more expensive to carry mail.

Hon. Mr. McRAE: We have to remember that operators up there in the north country have very heavy expenses, and we must not add to them.

Hon. Mr. CALDER: Are the companies making any money?

Hon. Mr. McRAE: I do not know about that. I am not particularly interested, so long as they are giving good service.

The CHAIRMAN: Shall we have subsection 5 of section 10 amended so as to apply not only to interurban service but to regular service which the Board says is operating now or should be operating?

Hon. Mr. CALDER: Take two points, A and B. Suppose there is a mail service over the route twice a week, and that two other companies in the course of their work happen to go over the same territory once or several times a week. Would this apply to all who go over that territory?

Right Hon. Mr. MEIGHEN: It would give the Minister control over all who go over that route. That is what he wants, and, considering the nature of the Bill, I would be prepared to give that to him.

Hon. Mr. McRAE: I feel that it should be limited to interurban service, to begin with. I do not hesitate to say that if this goes into effect, thirty days afterwards there will be objections presented down here against undue competition. There is not any regular service to-day.

Hon. Mr. HOWE: There is this angle to be looked into: these companies have built radio-telegraph stations to protect their services. Is it fair to allow anyone to come in there and compete with them?

Hon. Mr. McRAE: Others could not use that radio service. That is all to the advantage of companies which establish it.

Hon. Mr. HOWE: Still, a new company can come in and pirate on a company that has put the radio service in.

Hon. Mr. McRAE: I think it is necessary to give considerable leeway in the northern country at the present time.

Hon. Mr. HOWE: My opinion is you can give them so much leeway that you would wreck them all.

The CHAIRMAN: Is the proposed amendment to subsection 5 satisfactory?

Hon. Mr. DANDURAND: Has Mr. O'Connor in mind what is suggested?

The LAW CLERK: I think I understand it. I could bring in a draft and, if so instructed, an alternative draft whereby this could be kept down to a small compass, if desirable, and its application restricted in so far as the north country is concerned.

Hon. Mr. McRAE: That would be better.

The CHAIRMAN: Then we can carry this, subject to the amendment?

On section 11—Transport prohibited:

Hon. Mr. McRAE: There is room here for all kinds of trouble.

Right Hon. Mr. MEIGHEN: There will be a clause saying this shall not apply to certain things.

Hon. Mr. FARRIS: Section 12 covers that point.

The CHAIRMAN: Subsection 2 of section 12 reads:—

The Governor in Council may by regulation exempt any aircraft or class of aircraft from the operation of this Part.

Hon. Mr. McRAE: That helps.

On subsection (2) of section 11—Fine and forfeiture for infractions:

Hon. Mr. McRAE: Mr. Chairman, I do not see why airships should be subject to forfeiture when ships on the lakes are not. I think that forfeiture provision is too harsh.

Hon. Mr. GRIESBACH: I think that when air representatives were here they pointed out that an offence might be committed by one pilot employed by a company operating a number of aircraft. They contended the company should not be penalized for the fault of one pilot who was disobeying instructions of the company.

Hon. Mr. McRAE: I think that forfeiture provision is too harsh, Mr. Chairman.

Hon. Mr. HOWE: Yes, I think that is unnecessary. It could be stricken out. We could strike out the words reading "and every aircraft by means of which goods or passengers are transported contrary to the provisions of this Part shall be subject to forfeiture as hereinafter provided."

The CHAIRMAN: Is it agreed that the forfeiture provision shall be stricken out?

Some Hon. SENATORS: Carried.

On subsection 3—Detention of aircraft:

Hon. Mr. HOWE: I think this subsection could come out too.

The CHAIRMAN: Is that agreeable?

Some Hon. SENATORS: Carried.

Section 11, subsection 4—suspension or cancellation of licence, was agreed to.

Section 12—when this Part comes into force, was agreed to.

PART IV

TRANSPORT BY HIGHWAY

On section 13—application of Railway Act:

Right Hon. Mr. MEIGHEN: I suppose that in line 40 we should insert the word "any" between the word "or" and "person."

The amendment was agreed to.

Hon. Mr. HOWE: I think we might strike out in the last line the words "and not less than \$100."

The LAW CLERK: And do that all the way through the Bill.

Hon. Mr. HOWE: Yes.

The section was amended.

The CHAIRMAN: This amendment will be made all through the Bill where the words occur.

The section as amended was agreed to.

On section 14, subsection 1—Minister may license commercial vehicles.

Right Hon. Mr. MEIGHEN: Does the Minister think it important to include passenger business?

Hon. Mr. HOWE: It is a question whether buses should come in or not.

Right Hon. Mr. MEIGHEN: We did not have an argument advanced in favour of buses, except as Senator Dandurand gave it this morning, that there was a cheaper transport by bus than by railway for passengers, and therefore buses had to be controlled. How you are ever going to do that I do not know.

Hon. Mr. DANDURAND: There seems to be a consensus of opinion that transport by bus in a certain area could be well allowed without any control or regulation, even if the rate be below the railway rate. I think all passenger bus rates are below the railway rates. But after running from one province to the other on long distances, it seems to me the bus rates at all events should be known.

Right Hon. Mr. MEIGHEN: The great bulk of bus passenger traffic is intra-provincial. That is under the jurisdiction of the provinces. We say, "Wherever the traffic is interprovincial—between the provinces—we are going to control it, so we shall be able to regularize those rates and make things fairer for the railways." Then a system will be established whereby there will be one scale

of rates from Montreal to Toronto, but quite a different situation as between, say, Toronto and Windsor, or Toronto and Cornwall. You do not get anywhere that way. As respects the whole highway transport feature of the Bill, I think the area you can cover by this regulation is so trifling compared with the intra-provincial that the complications will be far worse than without any regulation at all.

Hon. Mr. BLACK: The same argument applies to freight as to passenger traffic.

Right Hon. Mr. MEIGHEN: Yes, but there is not much of it. You can invade only a fraction of the business, and even that fraction is going to be challenged, for counsel for the provinces have clearly said, "We deny your right even there." But suppose we succeed and establish our constitutional right to get into it, the complications are going to be great, and the little bit of good you can do is not going to amount to much.

Hon. Mr. FARRIS: What is the solution?

Right Hon. Mr. MEIGHEN: Leave it out. Water transportation is pretty much interprovincial, but highway traffic is going to be about 95 per cent controlled by the provinces. The Minister, I know, looks forward to the provinces vesting in our Board the enforcement of our law. Well, he is still a young man, but the attitude of the provinces which we have observed would lead me to think that he will be an old man before that is done. The provinces fight for every inch of territory in all matters of jurisdiction.

Hon. Mr. MURDOCK: A gentleman who appeared before us some days ago representing Toronto City Bus Lines said that they had regular runs into Niagara Falls, New York, and into Buffalo over the Peace bridge.

Hon. Mr. HOWE: Yes, there are runs from Montreal to New York and between other international points.

Right Hon. Mr. MEIGHEN: Yes, and there are others. The provinces say, "You are under our jurisdiction until you get to the boundary inasmuch as your property and works are not connected by any physical tie like the railways' are. We control you to the boundary." They are going to fight on that. What is the use of inviting litigation.

Hon. Mr. MURDOCK: There is a question of a through rate on international service.

Right Hon. Mr. MEIGHEN: The provinces say, "We control it to the boundary, and the State of New York controls beyond."

Hon. Mr. CALDER: What Senator Meighen says was clearly brought out in the evidence. It was shown that the total loss to the railways, that is, reduction in income, on account of passenger and freight services performed by the road transport companies was something in the neighbourhood of \$38,000,000. I think the proportion of interprovincial traffic was practically negligible, not more than 1 or 2 per cent. I agree fully with Senator Meighen, that the amount involved in connection with the control of trucks that pass from one province to another is very very small indeed, and I doubt if it would be worth the trouble of trying to control it.

Hon. Mr. BLACK: Is it not a fact there would not be any control at all until the provinces agree to come into the picture?

Hon. Mr. CALDER: Yes.

Hon. Mr. BLACK: If that is the case why not leave the section as it is and give the federal authorities a right to negotiate with the provincial authorities, or vice versa.

Right Hon. Mr. MEIGHEN: That right is quite ample now.

Hon. Mr. BLACK: But you have not any machinery.

Hon. Mr. DONNELLY: Why encourage litigation with the provinces by attempting to legislate on something over which they feel they have complete control. They sent their representatives here to oppose this part of the Bill. If you are ever going to make any headway along this line, I think the proper thing is for the Minister to approach the provinces and agree on some well defined plan.

Hon. Mr. FARRIS: Mr. Chairman, is it not true that there must be some federal jurisdiction? If the Minister wants to take the lead in co-operation with the provinces, why should he not be given his powers first, so that he can then go to the provinces and say, "Let us get common rights."

Right Hon. Mr. MEIGHEN: They deny that we have any.

Hon. Mr. FARRIS: They cannot successfully.

Right Hon. Mr. MEIGHEN: I do not know.

Hon. Mr. HOWE: If we have rights, what has it got to do with the provinces?

Right Hon. Mr. MEIGHEN: We are simply challenging the provinces to a litigious duel for the sake of a certain measure of control which, if we establish our right in it, is so small that we get nowhere.

Hon. Mr. DANDURAND: I have been disposed from the beginning to view the matter as Senator Black has just expressed it, that power be given to the Board to control interprovincial and international road traffic in order to allow the Dominion authorities to confer with the provinces. The part that the Dominion may play is not considerable, but still we are playing a part, and the Minister, I think, has said that he does not intend to apply this Act until he has come to a complete understanding with the provinces.

I suppose that I am voicing your views.

Hon. Mr. HOWE: Yes, that is correct.

Hon. Mr. GRIESBACH: Have you any statistics as to the number of passengers carried by buses in Canada and the number carried within the provinces?

Hon. Mr. HOWE: I haven't got them here. I dare say they are available at the Bureau of Statistics.

Right Hon. Mr. MEIGHEN: I am told that the percentage of the interprovincial or international traffic is 1.02.

Hon. Mr. HOWE: Yes. Nevertheless, the big transport lines are interprovincial.

Right Hon. Mr. MEIGHEN: They may be big companies, but the extent of the business is 1.02.

Hon. Mr. GRIESBACH: I think you are misled by the fact that many of them have painted on their sides "Montreal to California." Most of the people travel short distances.

Hon. Mr. HOWE: And of course you have another factor, the private car driver who advertises that he is going to California and will take four passengers. That is not a big factor.

Right Hon. Mr. MEIGHEN: I just wanted to express my view for future reference.

Hon. Mr. DANDURAND: I recognize that it would be unconscionable to take a company that operates from a large city like Montreal or Toronto, and carries its passengers to the line and crosses into Buffalo, for instance, or Detroit, and treat it as coming under the federal jurisdiction just because it pokes its nose across a bridge.

Right Hon. Mr. MEIGHEN: Whereas perhaps three-quarters of the business is purely local.

Hon. Mr. DANDURAND: I quite understand that the Minister would say that until we come to an understanding with the provinces we will leave this part of the Bill in abeyance.

Right Hon. Mr. MEIGHEN: I think the principal beneficiaries will be some lawyers.

Hon. Mr. CALDER: The understanding would be that under section 12 this part should not come into force until proclaimed by the Governor in Council, and that proclamation would not issue unless you had an understanding with the provinces?

Hon. Mr. HOWE: That applies generally here. That is section 17.

Hon. Mr. CALDER: Yes. That is, it is your present intention not to bring it into force unless an agreement can be reached with the provinces.

Hon. Mr. ROBINSON: Then there is section 18.

Hon. Mr. CALDER: Then I do not think there would be any trouble in leaving it just as it stands.

Hon. Mr. HOWE: I think there should be a pattern to these things. They have these things in the United States. They have a Transport Act there, and it seems to be working well. The demand may come here. I do not think we should have to pass a new Act every time there is a change of condition. This is an Act to regulate transport as far as our jurisdiction applies.

Right Hon. Mr. MEIGHEN: I would not press the matter any further. I have expressed my view on it.

The CHAIRMAN: There is an amendment to section 14, subsection 1. Let us see what it is.

The CLERK OF THE COMMITTEE: On page 8, line 2, after the word "transport" insert the words "or to carry as the case may be."

Hon. Mr. HAIG: I want to ask a question about some statements made by the Minister which we could not hear. Do I understand the Minister to say that he is not going to bring sections 13, 14, 15, 16 and 17 into effect until he arranges for 18? Is that what I understood him to say?

Hon. Mr. HOWE: No, not necessarily. My statement was that we would not attempt to apply this to interprovincial traffic unless we had an understanding with the provinces involved.

Hon. Mr. HAIG: That is in, then—18.

Right Hon. Mr. MEIGHEN: No. That is different.

Hon. Mr. HAIG: That is the agreement with the provinces.

Hon. Mr. HOWE: If they ask us to regulate we will do so. They might ask us to regulate.

Hon. Mr. HAIG: I do not think you have answered my question. Suppose the province of Ontario says, "No, we will not allow you to have anything to do with our interprovincial traffic"—and they will say that, and have said that; Mr. McQuesten has said it very strongly—do you intend, until you make an agreement with Ontario, to bring the rest of the highway part into effect?

Hon. Mr. HOWE: There are two distinct parts. First, there is section 18. We cannot do that unless the province invites us to do so. As far as inter-provincial traffic is concerned it is quite possible that the provinces will suggest that we regulate that.

Hon. Mr. HAIG: But suppose they do not ask you to do that you won't put that part in force?

Hon. Mr. HOWE: No.

Hon. Mr. CALDER: What about international traffic?

Hon. Mr. HOWE: That is something else again.

Hon. Mr. CALDER: I would think you would regulate that before there is any agreement with the provinces.

Hon. Mr. McRAE: It is suggested that a change of buses at the international boundary would remove any jurisdiction.

Hon. Mr. HAIG: If I want to go to Regina what is to prevent me getting off at Whitewood and walking across the boundary and then riding in another bus to Regina?

Hon. Mr. MURDOCK: Look at the interpretation. Paragraph (i) says:—

“Interprovincial or foreign trade means” the transport of goods or passengers between a place in one province and a place in another province, or between a place in Canada and a place outside of Canada, and shall include any transport of goods wholly within a province which forms part of a through movement of goods, whether or not on one bill of lading, with another carrier when the points of origin or destination are in different provinces or in Canada and a foreign country.

Hon. Mr. ARTHURS: This is the most dangerous clause in the Bill. If a shipment is made from Buffalo it will naturally be carried to Toronto by a regular transport route. From there another company will take it to North Bay, and it will be liable to a fine under this Act unless it has a licence, provided the shipment is directed from any international or inter-provincial point. It may go over a dozen lines, and each will have to have a licence.

Right Hon. Mr. MEIGHEN: You are in fearful complications even in international traffic.

Hon. Mr. HOWE: Why do they not arise in the United States?

Right Hon. Mr. MEIGHEN: I fancy they do not do that.

Hon. Mr. HOWE: Any shipment of goods crossing the line on a through bill of lading, or crossing a state boundary is subject to regulation.

Right Hon. Mr. MEIGHEN: If someone ships goods down to New York and sends them by boat, say, to Buffalo, and from there they are transported by truck say to New York, wholly within the State of New York, inasmuch as the goods came from Canada is the control in the United States Government?

The LAW CLERK: If they are routed through at the beginning. That is their law, at any rate. That is an undecided point under our law.

Right Hon. Mr. MEIGHEN: Has it been decided there?

The LAW CLERK: Yes. These are “through traffic cases” as they call them.

Hon. Mr. GRIESBACH: That is all covered by the through bill of lading, the same as a through passenger ticket.

The CHAIRMAN: What about the amendment to subsection 1 of section 14?

The CLERK OF THE COMMITTEE: Page 8, line 2, after the word “transport” insert the words “or to carry as the case may be.”

The amendment was agreed to.

Subsections 2 and 3 of section 14 were agreed to.

On Subsection 4—indication of routes and services:

The LAW CLERK: I am sorry to strike the first jarring note I have struck, but it is my duty to advise the Committee that in my view portions of 14 and practically all of 15, in that they depart from the matter of trade and commerce, upon which the Dominion must base its jurisdiction, go into the

control of physical persons and things within the province, and would be beyond the power of the Dominion. The essential end of the section, however, in my judgment, can be preserved by eliminating references to roads, vehicles and persons carrying the trade or traffic.

The CHAIRMAN: It must be trade?

The LAW CLERK: Yes, to come within our jurisdiction. Take the provisions of subsection 6. They seem to me to be clearly beyond our power. If I am right, that would entail the destruction of section 15, which is almost wholly confined to the operation of the provisions of section 14. But, as I have said, the desired end can be achieved by rewriting the provisions of section 14 and eliminating provisions of section 15 so as to deal only with trade and commerce. Transportation is, I think, a part of that. Where you begin to deal with physical things and persons within a province, as apart from the traffic itself, I think you are going beyond your power.

Hon. Mr. HOWE: Could we hold this until we investigate that point further? I think that point may be very well taken.

The CHAIRMAN: Mr. O'Connor is instructed to rewrite the provisions. Sections 14 and 15 stand.

On section 16—Prohibition of transport:

Hon. Mr. BLACK: Is not this in the same position?

The CHAIRMAN: Shall this stand for examination?

Hon. Mr. HOWE: Yes.

Section 16 stands.

On section 17—When this Part comes into force:

Mr. G. W. MASON, K.C.: Mr. Chairman, the honourable the Minister in his opening remarks to the Committee, which you will find on page 5 of the proceedings, dealt with a matter which I should like to mention. He also dealt with the same subject-matter on page 245, where he said:—

As I said, we do not place any emphasis on that, and certainly would not proclaim it without the consent of the provinces affected. We could not possibly set up machinery to do it, but when you are setting up machinery I do not think you should leave out entirely provision—

And the Right Hon. Mr. Meighen then suggested it might be well to leave in the provision.

Hon. Mr. LAIRD: Whom do you represent, Mr. Mason?

Mr. MASON: The provinces of Ontario, Manitoba and Saskatchewan.

Whatever might be said about clause (i) of section 2, which is the clause that defines interprovincial or foreign trade, there could not be any constitutional justification for the inclusion of the words mentioned by Senator Murdock a few moments ago. There is a very wide difference between the American federal constitution, under which the Interstate Commerce Commission functions, and our Canadian constitution. That is well set out in Bryce's American Commonwealth.

Hon. Mr. FARRIS: Did you consider the amendment that was made by changing "or" to "and"? That is very material to the point you are making.

Mr. MASON: I did not pay any particular attention to it, although I have made a note of it.

Hon. Mr. LAIRD: I think we understand the difference between the American constitution and ours.

Mr. MASON: I have an amendment which would perhaps offer an expeditious way out of the immediate difficulty which would otherwise face 170,000 or 180,000 drivers of motor trucks. I suggest there should be a provision that nothing in this Act relating to transport by highway shall come into force before a date to be fixed by proclamation of the Governor General published in the *Canada Gazette*. The effect of that, Mr. Chairman, would be that the Minister and the Provinces might have conferences; the Minister would take no action, as he said he would not, until such time as the Provinces signified their consent to working out some basis. What I am concerned about is to prevent necessity for resort to litigation.

Hon. Mr. HOWE: Where would you suggest that amendment be inserted?

Mr. MASON: I think that the proper place for it would be at the very end of the Bill, because there are certain sections in Part VIII which also would be affected. If it were put at the very end of the Bill it would cover all relevant matters in the Bill. I will read my proposed amendment again:

Nothing in this Act relating to transport by highway shall come into force before a date to be fixed by proclamation of the Governor in Council published in the *Canada Gazette*.

Hon. Mr. HOWE: There is no objection to that at all, but it seems to me it is parallel with section 17.

Mr. MASON: No sir.

Hon. Mr. HOWE: Could this matter stand until the Law Officers have had an opportunity of examining it? It might be necessary to cut out section 17.

Mr. MASON: I am quite willing to have it stand over for consideration, though I do not think it affects section 17.

The LAW CLERK: I think perhaps section 17 would have to be rewritten.

Mr. MASON: My amendment would relate to the whole Bill, while section 17 relates only to Part IV.

The CHAIRMAN: This amendment stands for consideration by the Law Officers. And section 17 stands.

On section 18—Board may act as agent of a province:

Right Hon. Mr. MEIGHEN: That is all right. The Board should not begin to hire a staff just yet, though.

The section was agreed to.

PART V

HARBOUR TOLLS

On section 19—power to make inquiries into harbour tolls—clause (a):

Right Hon. Mr. MEIGHEN: I should like to hear from the leader of the Government or from the Minister how this is going to be reconciled with the National Harbour Act which we passed last session.

Hon. Mr. HOWE: It is reconciled in this way, it is only for the guidance of the Minister in fixing tolls. It is only advisory as it stands now.

Right Hon. Mr. MEIGHEN: The Minister is still going to do the fixing.

Hon. Mr. HOWE: Yes. We think there should be a court to which to refer cases of that kind should we desire to refer them.

Hon. Mr. GRIESBACH: Is that Board to conduct inquiries at which evidence is to be taken?

Hon. Mr. HOWE: Yes.

Right Hon. Mr. MEIGHEN: But the Minister does not have to pay the slightest attention to the Board after he gets the report.

Hon. Mr. HOWE: That is true; but it would be difficult to disregard it entirely if it was a practical application.

Hon. Mr. BLACK: That is only where the different harbours dispute certain tolls fixed by the Minister.

Hon. Mr. HOWE: He would send it to the Board for hearing.

The LAW CLERK: Following the same system as before, shall we insert the words "inter alia" after the word "regard" in line 40? The line will then read "have regard inter alia to—"

The CHAIRMAN: Yes.

The amendment was agreed to.

Mr. VARCOE: There is another slight amendment in the first part of section 19. It is proposed to insert after the word "inquiry" in line 36 the words "and at the conclusion thereof report in writing to him." The section will then read:—

The Board shall, when requested by the Minister, make inquiry and at the conclusion thereof report in writing to him in respect of any harbour tolls—

and so on.

The amendment was agreed to.

Right Hon. Mr. MEIGHEN: Mr. Chairman, the Shipping Federation of Canada in respect of this section requested that the Board should make such investigation and report when requested not only by the Minister, but when requested by any representative body of traders or carriers; so that the Board, as an appellate court, capable only of giving advice, could be appealed to by others as well as by the Minister if they felt that the tolls for the time being levied and collected were not right tolls.

Hon. Mr. HOWE: I daresay that is the ultimate objective, but we have had only four or five months to get the tolls in line. We think we should be given more time to straighten them out across Canada before we throw the door open to appeals. Another factor is that the Board of Railway Commissioners' machinery is not adapted to this type of investigation at the moment.

Right Hon. Mr. MEIGHEN: It is pointed out to me that the objection raised to amplifying the clause now is already provided for by section 21, that this part shall not come into force until proclaimed.

Hon. Mr. HOWE: But we should like to use it immediately. We would prefer to have them hold hearings instead of ourselves.

Right Hon. Mr. MEIGHEN: The Shipping Federation would like to do that too.

Hon. Mr. HOWE: We want this to help us out.

Right Hon. Mr. MEIGHEN: It is a sort of pass the buck system.

Hon. Mr. HOWE: It is in a way.

Clauses (b), (c), (d) and (e) were agreed to.

Subsection 2 was agreed to.

Section 19, as amended, was agreed to.

On section 20—recommendation to Minister:

Hon. Mr. CÔTÉ: Will this evidence be available to the public interested, or will the recommendation be a secret?

Right Hon. Mr. MEIGHEN: The Shipping Federation wants this evidence submitted to the Governor in Council. Apparently they think they are too much under the absolute control of the will of the Minister.

Hon. Mr. HOWE: The Shipping Act says the Minister shall fix the tolls. I suppose the Governor in Council would refer it back to the Minister.

Hon. Mr. COTÉ: The Railway Board is really a court of record under its constitution. They are being asked to investigate and make a recommendation. It seems strange to me that an investigation made by a court of record should be made in camera.

Hon. Mr. HOWE: I do not think that is suggested, senator. The Board's hearings are open to the public. We are not changing that.

Hon. Mr. COTÉ: They are to send their judgment to only one person. Would that preclude them from showing it to anybody else?

Hon. Mr. HOWE: I do not know. I think they always take evidence in public.

Right Hon. Mr. MEIGHEN: I do not think this whole Part amounts to a hill of beans in view of the terms of section 15. The Minister and the Harbour Board decide everything, anyway.

Hon. Mr. HOWE: He does now. Is there any objection to having this machinery to hear cases?

Right Hon. Mr. MEIGHEN: This is a sort of pillow between the Minister and the disaffected users of the harbours. The Minister's decision stands supreme, no matter whether this passes or not.

The CHAIRMAN: Is there much difference after all between the Minister who is a live wire in Council and the Governor in Council?

Right Hon. Mr. MEIGHEN: Not much. It is not worth changing.

Hon. Mr. CALDER: I suppose the situation is briefly this. You are dealing with the whole question of tolls all over Canada, and there are great differences of opinion between your department and the shippers as to what tolls should be paid.

Hon. Mr. HOWE: Yes.

Hon. Mr. CALDER: I can quite understand there must be a frightful accumulation of that sort of stuff, all of which you have to digest and get evidence on. You wish some scheme whereby you can be relieved of that work?

Hon. Mr. HOWE: Yes. We are referring to a disinterested party. Anyone can come and make his case where we make our case. In nine cases out of ten I think we would be governed by the opinion of the disinterested party.

Hon. Mr. CALDER: He should have that relief.

Right Hon. Mr. MEIGHEN: I think the board should decide the rates.

Hon. Mr. CALDER: That is another phase.

The section was agreed to.

On section 21—when this part comes into force:

Hon. Mr. CALDER: What is the objection, Mr. Howe, to putting into force the conclusions that the board reach after they have had this inquiry?

Hon. Mr. HOWE: We are responsible for protecting the rate structure of the harbours and for the revenues. After the board has developed a background for this sort of thing we will not object to that, but at the moment it would mean changing the Canada Shipping Act, which we put into force only five months ago. We think we should have time to develop this, and the board should have time to develop the machinery.

Hon. Mr. CALDER: So after the ground work is done the ultimate object would be to hand over to the board the fixing of harbour tolls?

Hon. Mr. HOWE: Right.

Hon. Mr. CALDER: How long do you expect it will be before that can be done?

Hon. Mr. HOWE: A year or two perhaps. As I said in the first place, after we get a year or two's experience in this thing we will rewrite the present Railway Act to make it a Transport Act. That is, instead of applying the terms of another Act to this Bill, we should have a Bill which in itself is complete. We hope to build up experience over a year or two which will enable us to do that. When that time comes I think would be the time to be given power to fix rates finally.

Section 21 was agreed to.

PART VI

AGREED CHARGES

On section 22—agreed charges approved by board:

Hon. Mr. HAIG: What does that mean?

The CHAIRMAN: We have an amendment which perhaps will clarify it. After the word "special" insert the words "or competitive." Those are the designations given by the Railway Act to certain tariffs.

Right Hon. Mr. MEIGHEN: This whole section, if I have appreciated the representations to the committee, is out of harmony with the Railway Act and the whole system of control. It will enable the railways to make special bargains in order to get the whole business of a certain class of people, and will work to the advantage of the big shippers. At least, it can be made to do so. If it does not do that, I cannot see what else it can do. It is represented to us that agreed charges have been in force in England for some little time. But they have a different country from what we have. The information we got, and I saw it confirmed by certain publications in England, was that while it is O.K. for the railways, it is certainly not acceptable to the shipping public, even over there. We ought to be very careful about passing this part on agreed charges. I think you will find a whole lot of friction will arise as a result of it.

Hon. Mr. BLACK: If I got a proper understanding of it, Mr. Chairman, it could be used to the great disadvantage of small traders and dealers in commodities, and to the great advantage of the dealer or producer on a very large scale.

Right Hon. Mr. MEIGHEN: The Canadian Manufacturers' Association are very strongly opposed to this part. They have asked to be heard again to-day, they feel so strongly about it.

Hon. Mr. HOWE: What is their objection to it?

Right Hon. Mr. MEIGHEN: Their man is here.

Mr. BROWN (Canadian Manufacturers' Association): If you wish to hear me, I have something arranged very briefly, which I could read to you.

The CHAIRMAN: All right, read it.

Mr. BROWN: We have listened to the representations made by the minister and the railways in regard to this particular agreed charges section. Our first memorandum did object to it, and we still object to it.

It is still firmly believed that the inclusion of this part in the Bill would be a backward step—

Hon. Mr. LAIRD: Whom do you represent?

Mr. BROWN: The Canadian Manufacturers' Association.

It is still firmly believed that the inclusion of this part in the Bill would be a backward step and open the door to the establishment of agreements, which could not help but place in the hands of large carriers and large shippers an arrangement which would tend to seriously prejudice other carriers and other shippers. We fully appreciate the provisions in the Bill requiring that the agreed charges be approved and giving traders certain rights to make complaints, although denying this right to other classes of carriers than those making the agreements, but nevertheless this part would certainly take away from the users of these services certain conditions of the Railway Act as regards publication, posting and so on, as well as provisions of section 314—discrimination clause—which requires in effect that all tolls shall always, under substantially similar circumstances and conditions, etc., be charged equally to all persons and at the same rate, whether by weight, mileage or otherwise, etc. The negotiation of such agreed charges would present difficulties and while complaints were being handled, conditions would be very uncertain. No one could be sure of just where they stood, as new agreements would doubtless be made from time to time which immediately would make it necessary for parties not making the agreement to take steps to find out all about them and attempt to have similar arrangements made or the agreements cancelled. The information placed on the record by Mr. Flintoft in respect to the working of the present Railway Act and the flexibility of its conditions it would seem clearly demonstrates the necessity of leaving the matter of regulation under the Railway Act as it now stands. The efforts which have been put forth so far to secure publicity of rates have been directed towards complete publicity in the same way as is required under the Railway Act as it now stands and, therefore, if this can be realized, many of the so-called secret agreements now causing considerable difficulty would have to be adjusted to meet the conditions of publicity and freedom from undue discrimination. It should also be pointed out that under the present Railway Act the onus is on the carrier to justify its action when a case of unfair discrimination has been made out. The agreed charges part of the Bill does not do this.

While the information placed before the Committee, as shown on pages 282 to 285 dealing with the agreed charges part of the Bill, attempts to show that a similar provision in the Road and Rail Traffic Act 1935 of Great Britain is working out favourably, it should be pointed out that the information placed before the committee at page 123 indicates that traders organizations, such as the Liverpool Chamber of Commerce, were seeking some revisions of the Act, and at page 194 a cable is quoted from the Industrial Transport Association of London, which is an association of shippers' traffic managers, bearing directly on the agreed charges feature and indicates that it is not generally accepted, apparently because it gives the railways a monopoly. It would seem from this that shippers in Great Britain are working towards at least some changes in the existing part of the Act in Great Britain dealing with agreed charges. Whether they do or do not intend to cancel this provision, it is submitted that we should not introduce it into our regulatory provisions in this country.

The CHAIRMAN: Now, what answer is there to that?

Hon. Mr. PARENT: It reopens the whole question.

Hon. Mr. HOWE: Mr. Flintoft argued the case before. Perhaps he would say a word in rebuttal.

Mr. FLINTOFT: The unfairness from our standpoint is that my friend Mr. Brown does not suggest that the other interests be prevented from doing what they are doing to-day.

Mr. BROWN: I certainly would, if it could be done; we do not like it.

Mr. FLINTOFT: The best way is to give the railways the same rights as the other interests. Our submission is that it would be quite unfair to the railways to leave them hobbled and allow what is taking place to-day, and what is one of

the chief evils of the present situation, namely, the making of these secret agreements with no provision for publicity at all by the highway carriers and water carriers. There is a section of this measure providing for publicity. The agreements have to receive the approval of the Board.

Right Hon. Mr. MEIGHEN: The Minister, correctly as far as I can see, has been impressing upon us all through that we are going to have publicity in everything. If that is the case, why do you want a special right?

Mr. FLINTOFT: We don't. We are willing to take this provision which provides for proper publicity for these agreements. They do not come into effect until they are approved by the Board.

Right Hon. Mr. MEIGHEN: But you have been referring to secret agreements which are made by your competitors.

Mr. FLINTOFT: I say that to-day they are able to make them, and there is nothing in this Act except this provision that stops them making them. They will have to publish their rates now. If they are to be allowed to go on and do the sort of thing they have been doing, we would like to have the same opportunity.

Right Hon. Mr. MEIGHEN: Their rates are brought under the Railway Board in the same way as yours. That being so, why do you want some additional power?

Mr. FLINTOFT: There is this situation which is not covered by the Act. There is all this local traffic, intra-provincial traffic that is being carried by the trucks, which this Bill will not affect, and in respect of which they can make all the agreements they like. We say all the carriers should be in the same position, and that we should have the opportunity of making agreed charges if we find it necessary to do so in order to meet that traffic which is uncontrolled by this Act.

Hon. Mr. HAIG: If this Bill passes, can you make a special agreement with the T. Eaton Company whose bill for freightage is, say, \$200,000 now, and agree that the charge will be only \$150,000?

Mr. FLINTOFT: I do not know that it would be done in that way, but we could make a special agreement.

Hon. Mr. HAIG: Then the little fellow on the avenue would have to be under the regular tariff.

Mr. FLINTOFT: I do not say so. If he wanted to make the same agreement to give us all his freight, or a certain proportion of it, he would have the opportunity.

Hon. Mr. HAIG: You could charge him more so long as you kept under the positive tariff, and the T. Eaton Company would have the advantage.

Mr. FLINTOFT: I presume you would approve of a proper discretion on the part of the Board.

Hon. Mr. HAIG: The Board have nothing to do with it.

Mr. FLINTOFT: They have to approve it, and anyone who thinks his business is unjustly discriminated against can ask for the same treatment.

Hon. Mr. GRIESBACH: Would not the volume of trade influence the special rate?

Mr. FLINTOFT: It might in our case.

Hon. Mr. GRIESBACH: You would be governed by the volume of trade?

Mr. FLINTOFT: No doubt we would.

Hon. Mr. GRIESBACH: But the little fellow with the \$1,000 of business could not make any proposition at all.

Mr. FLINTOFT: He has an opportunity of going before the Board and showing the discrimination.

Hon. Mr. GRIESBACH: And the Board will compel you to give him the same rate?

Mr. FLINTOFT: Yes. Under subsection 5. I think the proper machinery is there for the protection of the small man. I do not think anyone would suggest this should be used as a weapon.

Hon. Mr. GRIESBACH: The example pointed out to us was the Woolworth Company in England, whose whole trade was carried for 4 per cent.

Mr. FLINTOFT: I would say that our Board in dealing with the matter would certainly have situations of that sort in view. It seems to me that you are going to set up a tribunal which will be semi-judicial at any rate, and which will give consideration to all these factors.

The CHAIRMAN: Do we not, many of us, favour mergers? They tell us they are going to sell things cheaper. Some times they don't do it.

Hon. Mr. LAIRD: It is the question of mass production.

Hon. Mr. CALDER: When this matter was up before I raised one or two questions, and was referred to subsection 11 of this section, on page 12. It says:—

On any application under this section, the Board shall have regard to all considerations which appear to it to be relevant and, in particular, to the effect which the making of the agreed charge or the fixing of a charge is likely to have, or has had, on—

(a) the net revenue of the carrier; and—

I think this is the particular part of it.

(b) the business of any trader—

—big or little,

—by whom, or in whose interests, objection is made to approval being given to an agreed charge.

In other words, if the railway company applies for approval of one of its agreed charges, in the first place notice has to be given as I understand it. Once that notice is given, any trader, big or little, no matter whether his freight is \$1,000 a month or \$150,000, has the right to appear before the Board and object to the agreement going through unless, all other things being equal, he receives equal treatment. That is right, is it not?

Mr. FLINTOFT: Yes, sir.

Hon. Mr. CALDER: When that statement was made to me I could not see very much objection to it.

Right Hon. Mr. MEIGHEN: Of course the practical objection to it is that all these little fellows cannot have lawyers always ready to watch agreements that are submitted to the Board.

Mr. FLINTOFT: They do not have to have lawyers, sir. The proportion of cases before the Railway Board in which lawyers appear is relatively small. As you all know, the Board of Railway Commissioners to-day is what might be called a popular tribunal. Anyone can appear before it and present his case, or, as many do, simply write a letter. The Board will investigate, whether a person appears himself or writes a letter. Lawyers are not employed ordinarily except in some of the larger cases. The Board deals with thousands of cases in which lawyers do not appear except for the poor unfortunate railways. In the large proportion of cases complainants come personally, and they get the same consideration as if they were represented by counsel; in fact, I think they often get more favourable consideration.

The CHAIRMAN: I can verify from my own experience what Mr. Flintoft says. I know that many people used to air their grievances by letter.

Right Hon. Mr. MEIGHEN: That is so, I know. But the small fellow out in Winnipeg, say, will have to watch his competitors and see what deals they are making with the railway.

Mr. FLINTOFT: That would be a pretty good idea, too, for he would protect his own interests, and after a while there would be established a body of jurisprudence which would make it clear that you cannot enter into agreements unduly prejudicial to competitors. I do not think there is any difficulty on that score.

Hon. Mr. HAIG: Mr. Flintoft, why should not there be a standard rate to which everyone, small and big, would be entitled?

Mr. FLINTOFT: I think my friend Mr. Brown can answer that better than I can. The railways are not responsible. I think that the railways, if it were feasible to do so, would be very pleased to have one standard rate all over Canada; but experience has shown that is not feasible.

Hon. Mr. HAIG: But why not have special rates published and made applicable to everyone in the same class of business.

Mr. FLINTOFT: Even after this Bill is passed, as I hope it will be, there is going to be a very large field which is not covered by it, a field of absolutely unregulated transport which we have no means of meeting because we have no access to the rates that prevail there although the people in that field have access to ours.

Hon. Mr. COPP: Would you have any objection to an amendment providing that if you do make an agreement which is approved by the Board you shall have to give to any trader in the same class an agreement on the same basis?

Mr. FLINTOFT: I should say that is what the Bill now proposes, in section 5.

Right Hon. Mr. MEIGHEN: Of course the intraprovincial traffic with which you have to compete is not wholly unregulated. It is regulated in four provinces now, I think.

Mr. FLINTOFT: It is not effectively regulated even in those four, sir. My friend Mr. Mason produced a telegram from the Deputy Attorney General of New Brunswick stating that that province was effectively regulating rates. With all deference, our experience is—and we have been in touch pretty closely with the situation in the last few years—that the regulation is not effective in New Brunswick. And it is not effective in any of the other provinces to-day. I think the province of Manitoba is making the best attempt at regulation.

Hon. Mr. GRIESBACH: You would not consider it proper unless your particular problem as a railway organization was taken into account?

Mr. FLINTOFT: No.

Hon. Mr. GRIESBACH: That is what is bothering you.

Mr. FLINTOFT: Certainly. We consider we are entitled to treatment as fair as any other system is receiving. But we do not ask for any better treatment.

Hon. Mr. DANDURAND: We must not close our eyes to the fact that we have a great national problem with regard to railways. Mr. Flintoft has spoken with respect to the Canadian Pacific, and I think we should like to hear Mr. Fraser for the Canadian National. We have a lot at stake in that system.

Right Hon. Mr. MEIGHEN: I think the whole Dominion has a lot at stake in the Canadian Pacific too.

Mr. FLINTOFT: When I made my statement I was appearing not only for the Canadian Pacific but for the Canadian National as well.

Mr. G. W. MASON, K.C.: Mr. Chairman, in view of what Mr. Flintoft has just said about regulation of truck rates in the provinces, may I be permitted to read two telegrams I have received? The first is from Manitoba. It reads as follows:—

Manitoba truck rates enforced by published standard tariffs bills of lading inspection staff of six men and suspension of operators on complaint. Manitoba maintains truck rates structure quite effectively. W. J. Major, Attorney General.

The other telegram is from Saskatchewan, and reads:—

Replying your wire March 4 T.C. Davis where complaints are made rate cutting investigations made. When proof obtained truck owner disciplined by warnings or suspension licence. Have two permanent highway patrol officers. C. M. Dunn, Minister of Highways.

I should like to file these telegrams with the Committee.

Hon. Mr. GRIESBACH: That does not answer Mr. Flintoft's argument.

Mr. MASON: Mr. Flintoft raised the question of effective control in the provinces. New Brunswick, Manitoba and Saskatchewan say they have effective control. I have previously shown what the Provinces have done. Ontario has so far not made any regulations, although it passed the necessary enabling legislation in 1936.

Subsection 1 was agreed to.

Subsections 2 and 3 were agreed to.

On subsection 4—Intervention by traders:

Right Hon. Mr. MEIGHEN: That clause (i) does not read correctly as it is now.

Mr. VARCOE: There is an amendment, to strike out the word "whose" in line 5 and substitute "who considers that his," and to strike out the word "whose" in line 7 and substitute "his," so that the clause will read:—

(i) any trader who considers that his business will be unjustly discriminated against if the agreed charge is approved and is made by the carrier, or that his business has been unjustly discriminated against as a result of the making of the charge by virtue of a previous approval.

And there is also an amendment to add the word "and" at the end of line 12, in clause (ii).

The CHAIRMAN: An amendment has also been handed in to strike out the words "of the same class" in clause (iii). Shall that be done?

Some Hon. SENATORS: No.

Hon. Mr. HOWE: I think it is all right as it is.

The CHAIRMAN: Shall the other amendments be made?

Carried.

Subsections 5, 6 and 7 of section 22 were agreed to.

On section 22, subsection 8—withdrawal of approval by Board:

Paragraphs (I) and (II) were agreed to.

On paragraph (III) of section 22, subsection 8:

Right Hon. Mr. MEIGHEN: In subsection 4 of this section it is provided that after a charge is approved any one of these three classes can appear. Now we come down to subsection 8 and say that once a charge is approved he cannot appear for a year.

Mr. VARCOE: On application for approval.

Right Hon. Mr. MEIGHEN: But it says in one if he complains that his business has been unjustly discriminated against as the result of the making of the charge by virtue of a previous approval.

Mr. VARCOE: He will be unjustly discriminated against.

Right Hon. Mr. MEIGHEN: No, he has been by virtue of a previous approval.

Mr. FLINTOFT: I would point out, sir, that under subsection 5 he can come at any time after the charge has been approved and ask for similar treatment.

Right Hon. Mr. MEIGHEN: I think he should be allowed to come at any time under subsection 8 as under subsection 4.

Hon. Mr. ROBINSON: He is allowed to come before the charge is agreed to.

Right Hon. Mr. MEIGHEN: Yes. But if he never hears of it and it is made indefinite, he has to wait a year.

Mr. FLINTOFT: After a year he can come and ask that the charge be withdrawn. Under subsection 5 where it is approval for a fixed period, he can come and ask for the same treatment; but under subsection 8, where it has been approved without restriction of time, then he can come and ask to have it withdrawn after a year.

Right Hon. Mr. MEIGHEN: On an application he can complain and say, "You have already approved of this and I have suffered." But how can he do that on the initial application? They have not approved of it at all.

Hon. Mr. ROBINSON: He has the same right in both cases to appear on the application.

Right Hon. Mr. MEIGHEN: But he is only allowed there to object on an application. What on earth is the application for if it has been previously approved.

Mr. FLINTOFT: It may have been approved of for a year.

Right Hon. Mr. MEIGHEN: And expired?

Mr. FLINTOFT: Yes.

Hon. Mr. COTÉ: Are you quite sure, Mr. Flintoft, subsection 8 means that, that the approval expires after a year?

Mr. FLINTOFT: It does not expire. It says where an approval has been given without restriction of time, he may come after a year and ask that it be withdrawn.

Hon. Mr. COTÉ: That would be a review of the case after one year.

Mr. FLINTOFT: Yes.

Hon. Mr. COTÉ: And it stops there. Why should he not come in another year?

Mr. FLINTOFT: Subsection 8 says the Board may withdraw or refuse to withdraw its approval, or may continue its approval subject to such modifications being made in the charge as it thinks proper and as the carrier and the trader to whose goods the charge is applicable are prepared to agree to. As I read it, it simply means that there has been approval without restriction of time, this gives a chance of review at the expiration of a year.

Hon. Mr. COTÉ: Then if the approval is not withdrawn after another year, there could be another hearing if it is applied for?

Mr. FLINTOFT: If there is a new approval without restriction of time.

Hon. Mr. COTÉ: No, it is not an approval. It is a refusal to withdraw an approval. Subsection 8 says the Board has approved an agreed charge without restriction of time. It does not say, when it has refused to withdraw an approval.

Hon. Mr. ROBINSON: He has had two opportunities already.

Hon. Mr. COTÉ: But it is approval without restriction of time. That goes on indefinitely. I would change subsection 8 to make it read, where the Board had approved an agreed charge without restriction of time or refused to withdraw its approval.

Right Hon. Mr. MEIGHEN: The fundamental objection is that if the board approves of a rate, say, for five years, nobody has a right to be heard by the board until that period is over. The people will never stand for that in this country. They have to have a right to go to the board if they can make a case.

Mr. FLINTOFT: I think we could leave that to the board.

Right Hon. Mr. MEIGHEN: Yes. The board is not going to hear them if it is merely a factitious application. Under subsection 5 he can come at any time for the same treatment as the other fellow?

Mr. FLINTOFT: Yes, sir.

The CHAIRMAN: At the bottom of page 11 after the word "traders" the word "and" is to be inserted.

Mr. VARCOE: On the same page at line 47 the words "whose business" are struck out and the words "who considered that his business" are to be substituted.

The CLERK OF THE COMMITTEE: Page 12, line 3, strike out the words "for its approval of the agreed charge to be withdrawn," and substitute "for the withdrawal of its approval of the agreed charge."

The proposed amendment was agreed to.

Mr. VARCOE: In the proviso to that section there is an error that should be corrected. The words "under the last preceding subsection" should be struck out of line 10.

The proposed amendment was agreed to.

The CHAIRMAN: Shall section 8, as amended, carry?

Hon. Mr. CALDER: What is the objection to providing at the top of page 12 that he may at any time apply to the board? Is the position here the same as the position so far as other applications to the board are concerned?

Mr. FLINTOFT: Yes. It is only a question, it seems to me, when the board has gone into the thing once and approved the charge, of allowing the trader who has justified the arrangement a little time.

Hon. Mr. CALDER: Could you put in some words that would give the board the right to decide whether he should come in at any time? Let the board decide whether the application is a bona fide one and give him a hearing.

Hon. Mr. BLACK: A year has to expire in any case.

Hon. Mr. CALDER: I am suggesting that he should have the right at any time. The contract is made for fifteen years. We do not know what changes may take place.

Mr. FLINTOFT: In this particular case it is not a fifteen year contract, it is made without restriction of time.

Hon. Mr. CALDER: It may run for more than fifteen years.

Mr. FLINTOFT: But at any time after a year he can come in and ask for its withdrawal. Furthermore, he also has a right to come in at any time and ask for the same treatment.

Hon. Mr. ROBINSON: You need a little time to try it out.

Hon. Mr. COTÉ: Your point is that there has been a hearing, and you want a year.

Mr. FLINTOFT: A year is about the shortest time in which you can see whether the thing works out.

The CHAIRMAN: But that does not keep him from coming in and applying to get the same treatment?

Mr. FLINTOFT: Oh, no.

Subsection 8 was agreed to.

On subsection 9—cessation of charge:

Mr. FLINTOFT: That should be the same as the proviso.

The CHAIRMAN: "Under the last preceding subsection" comes out, and "under subsection 5 of this section" should be inserted.

Subsection 9, as amended, was agreed to.

Subsections 10 and 11 were agreed to.

On section 23—definition of "representative body of traders":

The CLERK OF THE COMMITTEE: There is an amendment to be made at the end of 23. It comes in as new section 24, and reads:—

Nothing in this part contained shall affect any right or obligation, granted or imposed, by the Maritime Freight Rates Act.

Some Hon. SENATORS: Hear, hear.

The proposed amendment was agreed to.

The CLERK OF THE COMMITTEE: And another amendment:—

25. This part shall not come into force until proclaimed as in force by the Governor in Council.

The proposed amendment was agreed to.

On section 4—application of Railway Act (reconsidered):—

The CHAIRMAN: Strike out "not less than one hundred dollars." It is decided to strike out these words wherever they appear.

Shall the amendment carry?

The proposed amendment was agreed to, and section 4, as amended, was agreed to.

The committee adjourned until to-morrow at 11 a.m.

MINUTES OF EVIDENCE

THE SENATE,

WEDNESDAY, March 10, 1937.

The Standing Committee on Railways, Telegraphs and Harbours, to whom was referred Bill B, intituled "An Act to establish a Board of Transport Commissioners for Canada, with authority in respect of transport by railways, ships, aircraft and motor vehicles," met this day at 11 a.m.

Right Hon. George P. Graham, Chairman.

PART VII

BROKERS

On section 24—brokerage of transport:

Hon. Mr. McRAE: Would a cartage company trucking, assembling and shipping by carloads to common points come within the scope of this section?

Hon. Mr. HOWE: Frankly, I have suggested to my colleague, Senator Dandurand, that the best thing to do with this section is to eliminate it. It is difficult to decide who is and who is not a broker. It is a little different from the rest of the Act, where we are regulating machines; here we are regulating people.

Hon. Mr. DANDURAND: Are you of the same mind?

Right Hon. Mr. MEIGHEN: I was going to ask if the Minister was inclined to extend that recommendation.

Hon. Mr. DANDURAND: I move that we drop Part VII.

The motion was agreed to, and Part VII was withdrawn.

PART VIII

GENERAL

Section 28 was agreed to.

On section 29—duty of Board re licences:

The LAW CLERK: The words "inter alia" will be inserted after the word "consideration."

The amendment was agreed to.

Right Hon. Mr. MEIGHEN: It is this clause to which the strongest possible objection was raised on behalf of three of the provinces by Mr. Mason. I know that he feels just the same about it now as he did before, and I propose that before we pass this we should hear him again.

The CHAIRMAN: Shall we hear Mr. Mason on behalf of the provinces?

Some Hon. SENATORS: Carried.

Mr. G. W. MASON: Mr. Chairman, the objection taken to this clause is—

Hon. Mr. DANDURAND: Is it the whole clause, or certain parts?

Mr. MASON: To paragraph (a), and then again to paragraph (b).

Section 29 says, not that the Board may, but that "it shall be the duty of the Board" to consider these things—

(a) any objection to the application which may be made by any person or persons who are already providing transport facilities, whether by rail, by water, by air or by highway, on the routes or between the

places in which the applicant intends to serve on the ground that suitable facilities are or, if the licence were issued, would be, in excess of requirements.

The only long distance hauling in Canada of any importance is between Ontario and Quebec, and vice versa. There is long distance hauling in other parts of Canada, but it is negligible.

Now, supposing you have an applicant coming to the Board, it is the duty of the Board to consider whether there are suitable facilities existing. Undoubtedly there are, because you have two lines of railways running between the two points, and therefore it would become almost incumbent upon the Board to refuse the application.

Then you go on to the next paragraph:—

(b) whether or not the issue of such licence would tend to develop the complementary rather than the competitive function of the different forms of transport.

Surely this would not develop the complementary function. If there were straight through traffic it would be competitive and the Board would say under paragraph (b), "We cannot grant licences in that connection." So, I submit that the whole effect of these two subsections, and indeed of subsection (c) also, is simply to instruct the Board that it cannot grant licences to motor transport trucks. In other words, there is a senior facility, which is rail or water, and if the junior facility comes in the senior can say "We are occupying the ground." This is a section that makes for prohibition, not regulation.

Hon. Mr. BLACK: Has it not been stated that no interference will be suggested even in respect of motor transport services now in existence?

Hon. Mr. HOWE: We intend to introduce that in the form of a grandfather clause.

Mr. MASON: These licences are only good for a year. What is the effect going to be if they are not renewed at the end of the year, or when the time comes for a new application? This simply prevents the application of a new applicant being considered at all.

Hon. Mr. DANDURAND: There may be no need for a new application.

Mr. MASON: The new applicant would not have a chance. He ought at least to have a chance to have the Board consider it without restriction. You are putting a restriction on the Board and saying, "You cannot consider it if there is a senior facility."

Hon. Mr. DANDURAND: Oh, no.

An Hon. SENATOR: What about the word "interalia"?

Mr. MASON: They assist to a certain extent, but if the Board is going to pay due attention to that section, I submit, the Board will say, "Our jurisdiction is so limited that we should give the right to the senior facility."

Hon. Mr. DANDURAND: As you know, the statement is consistently being made that we have too many parallel railroads.

Mr. MASON: Of course, if it is the policy of the ministry that there shall be no motor transport between Montreal and Toronto, this will effect the purpose; but what I am suggesting is that this is the practical effect.

Hon. Mr. DANDURAND: And you limit your argument to Toronto and Montreal?

Mr. MASON: Oh, no. But that is the only place where there is long distance hauling to any extent. There is long distance hauling in the Maritime Provinces and in the Western Provinces.

Hon. Mr. CALDER: The same argument applies to the buses that are running right across the continent and into the United States.

Mr. MASON: I have not given very much attention to the consideration of buses, because the buses were represented here by counsel.

Hon. Mr. CALDER: But the same argument would apply.

Mr. MASON: Oh, undoubtedly.

Hon. Mr. CALDER: Take companies operating from Vancouver to various points in the United States. Railways already exist. Those companies would have to get licences. The railway companies would say "We have all the facilities necessary."

Mr. MASON: I quite agree. The effect of this would be a prohibition of the buses as well as of freight transports.

Hon. Mr. BALLANTYNE: Your argument is this: If a company had plenty of capital and went to get the very latest trucks, very much superior to what they already had, and made an application for licences, it would be said, "Owing to the senior services we say no." Is that your argument?

Mr. MASON: Quite so. If I were sitting on that Board I would feel compelled to give the provision that interpretation.

The CHAIRMAN: Is not that really the ground you take in Ontario in giving licences to certain routes—the ground of convenience and necessity?

Mr. MASON: We are issuing licences in Ontario in competition with the railways.

The CHAIRMAN: I was asking if in Ontario you did not issue them on the same principle of necessity or convenience.

Hon. Mr. CALDER: That is for buses and trucks.

The CHAIRMAN: Under the Ontario Act it is, I believe, practically the same thing.

Hon. Mr. HOWE: Exactly the same.

Mr. MASON: The applicant would have to come before the Municipal Board and make an application on the ground of public necessity and convenience.

Hon. Mr. BEAUBIEN: Do I understand you to say that the Board could not take into consideration an excess of requirement?

Mr. MASON: I submit that the Board should be untrammelled and free to give consideration to every factor brought before it, and certain factors should not be put before it of which it is practically said "You must consider these."

Hon. Mr. BEAUBIEN: If there was a great excess, do you not think it should be one of the first things to be considered?

Mr. MASON: The language of the Bill refers not only to any excess, but to suitable facilities. The effect of this is to make the senior facility the one to be continued to the exclusion of motors.

Hon. Mr. CALDER: In the province of Ontario you have a similar law.

Mr. MASON: Yes.

Hon. Mr. CALDER: Your municipal authorities are required to consider the necessity for a new licence.

Mr. MASON: Yes.

Hon. Mr. CALDER: That does not mean they have not the power to grant, does it? The fact that other buses are running in a certain territory does not create a situation which compels the Municipal Board not to issue a licence.

Mr. MASON: The provision is not at all similar. It says you must come to the Ontario Municipal Board and get a certificate, but it does not trammel the Ontario Municipal Board or compel it to pay attention to one to the exclusion of the other. It is wide open.

Hon. Mr. CALDER: This only requires the Board to take into consideration. It does not say they shall not issue a licence.

Mr. MASON: It says it shall be the duty of the Board to consider these things among other things, and it puts before the Board these particular conditions, and naturally the Board would say, "We ought to make these considerations paramount."

Hon. Mr. CALDER: I think that is what they ought to do in Ontario.

The CHAIRMAN: Is not the investigation of the Municipal Board based on convenience and necessity?

Mr. MASON: Quite, but they can consider any factor.

The CHAIRMAN: I know they can, but then they come back to the question: Is the new line necessary?

Hon. Mr. COPP: Would it help any to say "the Board may"?

Right Hon. Mr. MEIGHEN: I was going to suggest that, but Mr. Mason is right in saying the Board would feel that Parliament had considered these things as things that must be looked to first.

Mr. MASON: You have already entrusted the Board to do this. I would submit that the fair way is to let them go ahead and do it without having their hands tied.

Hon. Mr. McGUIRE: Have you any suggested amendment?

Mr. MASON: There is no necessity for the clause at all, because the Board is already entrusted with this power. But it is told to observe these things. There is no need for that.

Hon. Mr. BEAUBIEN: Do you not think it is the duty of the Board to take into consideration, as one of the factors, the existence of an excess?

Mr. MASON: If I were a member of the Board I would consider that.

Hon. Mr. BEAUBIEN: Would you not consider it the duty of the Board to take that into consideration?

Mr. MASON: Well, perhaps it would be all right to take these things into consideration, but Parliament should not make consideration of them obligatory.

Hon. Mr. BEAUBIEN: The section simply says that it shall be the duty of the Board to take these factors into consideration, amongst other factors.

Mr. MASON: I do not want to make myself misunderstood. I would not say these factors are going to be of paramount consideration at all. A great many other factors may be given consideration. But my point is that Parliament is giving almost a direction which the Board would be bound to follow, and in that way the Board would be pretty well tied up.

Hon. Mr. HOWE: This is only a definition of public convenience and necessity.

Mr. MASON: The section says that in determining whether public convenience and necessity exist, the Board must take into consideration these factors. The decision of the Board would be affected by this.

Hon. Mr. HOWE: Do you not do the same thing in your provincial Act?

Mr. MASON: No, sir. I am sure there is nothing of that kind in it.

Hon. Mr. CALDER: Section 14 deals with the granting of licences to motor vehicles. Is that section not sufficient to cover the situation?

Hon. Mr. ROBINSON: That whole section is to be revised.

Hon. Mr. MURDOCK: Mr. Chairman, since the Canadian taxpayers are faced with the necessity of finding \$40,000,000 or \$50,000,000 on account of the railway situation, why should not Parliament stress these particular points that are mentioned in section 29, in connection with interprovincial and interna-

tional traffic? Why should not Parliament do that as a step in the direction of minimizing or reducing the burden on Canadian taxpayers?

Hon. Mr. CALDER: I think it is not necessary to say any more than is said in subsection 5 of section 14:—

The Minister shall not issue a licence in the case of a public commercial vehicle without first being satisfied by certificate issued by the Board that the proposed service is or will be required by the present and future public convenience and necessity.

The whole thing is left to the Board, and it seems to me there is no need for section 29 at all.

Hon. Mr. HAIG: Mr. Chairman, in Manitoba we have a public Utilities Board, which is not restricted as to what it shall take into consideration. Let me give an illustration to show how the system works. Winnipeg village is a small place forty-five miles north of Winnipeg and the Canadian Pacific has a line out there. If you want to send any baggage there you can telephone a transfer man in Winnipeg, who would pick it up and take it to the C.P.R. station. If you had a ticket, the baggage would be carried on that, but if not you must pay freight. When the baggage reaches the village, a local carter delivers it to your residence. When the trucks came in they started a service under which they will call at your home in Winnipeg, pick up your baggage and deliver it to your place at the village, all for a charge of 75 cents, as against the old charge of 50 cents from your home to the Winnipeg station and 50 cents for delivery from the station to your place at the beach. At the outset some seven or eight truckers got into the business, but the Board, when empowered by legislation to deal with the matter, said that one or two would be enough. Public convenience and necessity was taken into consideration, and a regular route was given to these one or two. But if we had had a law containing provisions such as are in this section 29, the trucks could not have obtained any licence at all. The Board would have had to rule that the railroad could supply the necessary service.

Hon. Mr. HOWE: What about public convenience?

Hon. Mr. HAIG: As Senator Calder says, we do not need anything more than section 14. Our system in Manitoba works well, and we have nothing like section 29 out there. Very seldom is there any appeal by one trucker against another. Buses run, for instance, between Winnipeg and Brandon, Winnipeg and Emerson, Winnipeg and Carman and so on. Our Board takes every phase of the situation into consideration. But we have nothing like section 29.

Hon. Mr. CALDER: Clause (b) of section 29 is even more dangerous than clause (a), I think. Under (b) the Board must take into consideration:—

Whether or not the issue of such licence would tend to develop the complementary rather than the competitive functions of the different forms of transport, if any, involved in such objections.

Where in the world is the Board going to land if it must take that into consideration? It seems to me the Board would have to say, in connection with any application as to territory already served by a railway company, that no licence could be granted to any other form of transport. Now, honourable senators, I think we must bear in mind that the truck is here to stay. It provides a great public convenience. Senator Haig has just given an illustration of how the trucks serve the public out in Manitoba. I think it is important to give the Board some latitude as to the issuance of a certificate.

The CHAIRMAN: What would you suggest?

Hon. Mr. CALDER: I would cut out this section 29.

Hon. Mr. DANDURAND: Section 29 is only directive. The considerations which are set out here seem to be very wise ones. We all know the situation in Canada to-day. The facilities that now exist will be maintained; no one now running a truck parallel to a railway will be affected. But surely in view of the heavy obligations on the taxpayer there should be an opportunity for the Board to examine into the question of whether or not the issue of a licence would tend to develop complementary or competitive functions. Taking a broad view of the thing, it seems to me we should not hesitate to draw attention of the Board to these matters.

Hon. Mr. BARNARD: If the Board concludes that competitive, rather than complementary, functions would be developed what would be the result?

Hon. Mr. CALDER: I submit, Mr. Chairman, we must bear in mind that if all the interprovincial truck traffic were eliminated, the benefit to the railways would be practically negligible. We have evidence to that effect.

Hon. Mr. BALLANTYNE: Sir Edward Beatty stated the other day that the railroads lost \$38,000,000 to highway competitors.

Hon. Mr. CALDER: But it was found that most of that sum is due to purely provincial traffic, which we are not attempting to control at all. The saving to the railways, if interprovincial truck traffic were abolished, would not amount to perhaps more than \$1,000,000. It must be remembered that for every truck running between Toronto and Montreal there are a thousand running wholly within Ontario.

Hon. Mr. DANDURAND: But, Senator, I draw your attention to the fact that this section covers airways and waterways as well as highways.

Hon. Mr. CALDER: I do not see how it is going to apply to airways. The fact that a railroad is running from Montreal to Toronto, carrying passengers, surely should not prevent issuance of a licence to operate planes. The services given by the two forms of transport are entirely different. And to some extent the same consideration applies to water transport.

Hon. Mr. DANDURAND: The Minister is of opinion that the section should remain.

Hon. Mr. HAIG: A section like this makes it almost impossible for some of us to vote for this Bill. It is a direct challenge to some of us.

Hon. Mr. ROBINSON: Does not that paragraph protect pretty well?

Hon. Mr. HOWE: You have made it mandatory on the Minister to issue licences if approved by the Board. I think we are entitled to give the Board some direction.

Hon. Mr. DANDURAND: It is most extraordinary that there should be objection to these clauses covering matters which everybody admits the Board would have to consider.

Hon. Mr. HARDY: Why not insert as an additional clarifying clause at the end of the section another section:—

That notwithstanding anything set out in this section, the Board shall not be compelled either to grant or to refuse to grant such a licence.

That would cover, I think, the point raised by Mr. Mason.

Right Hon. Mr. MEIGHEN: Or you can say, Senator Hardy, the Board may.

Hon. Mr. HARDY: But I think the general intention of the Bill is that the Board must consider.

Hon. Mr. DANDURAND: I suggest the substitution of "may" for "shall." Then strike out the words "It shall be the duty of." This will necessitate striking out also the word "to" in line 39.

The CHAIRMAN: Section 29 will then read:—

The Board may in determining in connection with any application for a licence, whether public convenience and necessity exists, take into consideration inter alia—

Shall these amendments carry?

The amendments were agreed to.

Section 29 as amended was agreed to.

On section 29, subsection 2:

The CHAIRMAN: There is a new subsection to section 29:—

(2) If evidence is offered to prove,

(i) that during the period of twelve months next preceding the coming into force of the relevant Part of this Act on, in or in respect of the sea or inland water of Canada, or the part of Canada, or the highway to which the application for a licence relates, the applicant was bona fide engaged in the business of transport, and,

(ii) that the applicant was during such period using ships, aircraft or motor vehicles as the case may be (hereinafter referred to in this section as "vehicles") for the purpose of such business, and,

(iii) the extent of the user of such vehicles including the capacity of the same to transport and the services maintained or performed by means thereof,

the Board shall, if satisfied with such proof, accept the same as evidence of public convenience and necessity to the extent of the user so proved and issue its certificate accordingly. Provided, however, that a ship temporarily out of service during the period of twelve months aforesaid shall nevertheless be deemed to have been in use during such period.

The LAW CLERK: That covers the case so far as all existing operators are concerned.

The CHAIRMAN: This is the grandfather clause.

Hon. Mr. CALDER: If we had known about the grandfather clause before we might have saved a lot of talk.

Right Hon. Mr. MEIGHEN: No, because at the end of the year you may not get the certificate again. It shall be deemed to be necessary for the issue of one licence.

The CHAIRMAN: I think that is pretty well rectified now.

Hon. Mr. ARTHURS: I think that applies to persons rather than that licences shall be granted for the routes.

The LAW CLERK: All licences under the Act are granted to persons.

The amendment was agreed to.

Hon. Mr. BLACK: Mr. Chairman, Captain Ogilvie, who is President of the Maritime Navigation Company, is here. He has an appointment at 12 o'clock and would like to be heard for a few moments, if you will kindly give him the opportunity. Yesterday we amended section 8 of the Bill eliminating coastwise shipping as far as Father Point. Mr. Ogilvie feels that his company should be granted, with all other companies doing similar business, an extension.

The CHAIRMAN: Very well.

Mr. W. W. OGILVIE (President, Maritime Navigation Company, Liverpool, N.S.): We feel that shipping and shipments originating in Maritime points should not have to have a licence, nor should they be subject to rates west of Father Point. We have gone to a lot of trouble and spent a lot of money to develop this service.

Hon. Mr. DANDURAND: What service are you interested in, from where to where?

Mr. OGILVIE: From the Maritime ports of Saint John, Halifax, Charlottetown—not myself, I have no axe to grind.

Hon. Mr. DANDURAND: I am not asking that. I want to know what ground you cover.

Hon. Mr. ROBINSON: You go west of Father Point?

Mr. OGILVIE: Absolutely, to the head of the lakes.

Hon. Mr. BLACK: How many ships have you?

Mr. OGILVIE: We have none in the trade. I am President of the Navigation Company, but we have ourselves no ships in the trade, but our friends down there, and even our competitors, have ships in this trade. They felt they would be exempted from this provision, but it looks very much as if they were not going to be. It is entirely unfair that all the work these men have done and all the efforts that they have made over a period of five years should be cast aside, because that is entirely what it means if it is not amended.

Hon. Mr. HOWE: What nonsense!

Mr. OGILVIE: What do you mean?

Hon. Mr. HOWE: How is it going to put you out of business to file a rate?

Mr. OGILVIE: Are you so sure we are going to get a favourable rate?

Hon. Mr. HOWE: No one is going to impose a rate on you.

Mr. OGILVIE: But how are we so sure we are going to get a licence?

Hon. Mr. HOWE: I do not know. It seems to me the silliest bit of evidence we have had in these sessions.

Mr. OGILVIE: Not at all. We have a rate on sugar of 22 cents a hundred pounds in the summer and 44 cents a hundred pounds in the winter. These men have worked up a good business, and it has been a great benefit to the Maritimes. If this is allowed to go through it will cause endless confusion and indeed competition. It will result in increased cost to the consumer.

Hon. Mr. MURDOCK: Your rate of 22 cents a hundred pounds from where to where?

Mr. OGILVIE: From Halifax to the Great Lakes. It is 22 cents per hundred pounds in the summer time and 44 cents in the winter time.

Hon. Mr. MURDOCK: By rail?

Mr. OGILVIE: Yes. The water rate is about 18 cents in the summer time.

Hon. Mr. BALLANTYNE: How is it going to hurt you?

Mr. OGILVIE: If we have to file our rates at 22 cents per hundred pounds, is it sure the company is going to give us the business?

Hon. Mr. DANDURAND: What is the question?

Mr. OGILVIE: If we have to file a rate of 22 cents per hundred pounds, and the rail rate is 22 cents per hundred pounds, who is going to get the business?

Hon. Mr. BLACK: Mr. Ogilvie, you have the right to file your rate at 18 cents.

Mr. OGILVIE: But it must be approved by the Board.

Hon. Mr. BLACK: I don't think so.

Mr. OGILVIE: It says so distinctly. It has to be approved by the Board. It also says that anybody who cares to object can upset that rate. Say the railway cares to object—

Right Hon. Mr. MEIGHEN: What objection can you level on that or on any score to this Bill in its effect on you that would not be equally applicable to any other man who has to come under the Bill?

Mr. OGILVIE: I don't understand.

Right Hon. Mr. MEIGHEN: You say, "We don't want it to apply to us." Can you show how it would be all right for somebody else and not all right for you?

Mr. OGILVIE: It works out to the disadvantage of the small man. It destroys individual effort. You gentlemen don't realize how difficult it is to operate a ship and get business and finance that ship and get it going. Mr. Howe made a remark last night that intercoastal commerce in the United States is governed by rates. That is true to a certain extent. But that is subsidized by the Government to a very large extent. We have no assistance in that service. As a matter of fact we have all the competition, all the trouble, and we have everything else that goes with it. If the Government is going to subsidize our shipping, we say—for instance, we have a clause in the Bill that a ship over ten years old is not admissible to registration. Has the Government said to us, "We will help you to build ships that will comply with the Act?" The Government has said no.

Hon. Mr. BLACK: But the regulation in regard to the age of the ship does not affect your ships because they are new.

Mr. OGILVIE: Must then the shipping of the Maritimes, while business is increasing all over the country, remain at a standstill? If we have ten ships now, does it say we shall have only ten, although there is business for fifty ships?

Hon. Mr. BLACK: I am in full sympathy with the desire to keep the Maritime ships doing the business they are doing now. But what you refer to are ships which are carrying products from the Maritime Provinces up to the Great Lakes in the summer and taking grain, flour and mill feeds down to the Maritimes.

Mr. OGILVIE: Yes.

Hon. Mr. BLACK: I do not see anything in this Bill so far that is going to affect that?

Mr. OGILVIE: Why not?

Hon. Mr. BLACK: Unless you assume that this Transport Commission is going to see that all freight goes by rail, and that they will ultimately build up rates that are prohibitive to the shipping. But I do not believe any Government could afford to do that kind of thing, no matter how much it might want to see the railways prosper.

Mr. OGILVIE: Taking the Bill apart and analysing it, is not that the intention of it?

Hon. Mr. BLACK: The Minister will have to answer that question.

Mr. OGILVIE: Have we asked for that regulation in trade? We are perfectly willing to take our chances.

Hon. Mr. HOWE: Seventy-five per cent of your competitors have.

Mr. OGILVIE: Where?

Hon. Mr. HOWE: West of Father Point.

Mr. OGILVIE: But 75 per cent of our competitors are represented by two large steamship companies, practically in the process of reorganization.

Hon. Mr. HOWE: Oh, no.

Mr. OGILVIE: They have nothing to lose and everything to gain. I mean, no matter what happens, they cannot be worse off than they are because they are in process of being reorganized at the present time.

Hon. Mr. ROBINSON: Is there much business west of Father Point?

Mr. OGILVIE: Yes. There are fourteen ships engaged in the trade now. I suggested to a man a minute ago where we had a case of a ship coming from Cuba to Toronto, say, with sugar. The ship must have a cargo both ways. We do not have the people of Canada paying our \$35,000,000 deficit. When we don't

pay our bills we are sold for our debts. But we had a case of a cargo of sugar for Toronto. Then we expected to get a cargo from Toronto to the head of the lakes and back again. The man says, "You know when you leave Cuba whether you are going to have time to apply for a licence." But in many cases we do not get orders for the actual port of discharge until we get to Canso or to Father Point. Then the ship is four or five days going from there to the head of the lakes, and two or three days discharging. Have we time to get a licence and file our rates and have a public hearing as to whether our rates are favourable or otherwise? This results in endless confusion, and nothing constructive.

The CHAIRMAN: Do you not think you are magnifying the situation, as if all the rest of us were endeavouring to hamper trade?

Mr. OGILVIE: Well, it seems so. Take the situation to-day, for instance. We have not a privately owned ship in Eastern Canada that trades the year around. We are the fifth trading nation of the world, but we have no ships. Have we not been hampered?

The CHAIRMAN: By whom?

Mr. OGILVIE: By the general public and by the Government. The Government has spent \$135,000,000 on the C.G.M.M., and has put us all out of business, and now they want to pass this further legislation.

The CHAIRMAN: What is the C.G.M.M.?

Mr. OGILVIE: The Canadian Government Merchant Marine, or the defunct Canadian Government Merchant Marine.

Hon. Mr. BLACK: You only have to file your rate.

Mr. OGILVIE: I agree that we only have to file the rate, providing there is time to do so. But when you have a ship costing \$100 or \$200 a day how long will it be before you are in bankruptcy?

Hon. Mr. BLACK: That rate stands until someone upsets it.

Mr. OGILVIE: The average ship is under 1,600 tons, and carries no wireless. Then how do we file the rate?

Hon. Mr. BLACK: You are the agent of the ship, and if you do not know where she is you cannot charter her.

Mr. OGILVIE: We know the ship and the port she leaves, and usually the port she is bound for; but in the case of a ship without wireless we do not know what time she is going to get there.

Hon. Mr. BLACK: All you have to do is to file your rate.

Mr. OGILVIE: Then, are we going to go ahead and ask rates on every conceivable piece of business we think might come to us?

Hon. Mr. BLACK: I do not think the Commission will interfere with that rate. They may ultimately say the rate is too high, but on that particular cargo at least you are safe.

Mr. OGILVIE: If you do not get your licence you are liable to confiscation, a \$1,000 fine, and a lot of other things.

Hon. Mr. BLACK: Is not the licence issued to the company?

Mr. OGILVIE: I am citing the case of a ship trading in the Maritimes. We want a cargo of flour back to help out.

Hon. Mr. ROBINSON: You cannot go to the Great Lakes without a licence?

Mr. OGILVIE: Yes, from Cuba we could; but we could not go back from the Great Lakes to Nova Scotia. I do not believe you gentlemen realize the ramifications of this Bill in regard to shipping.

Hon. Mr. BLACK: Your company charters ships to do your carrying for you?

Mr. OGILVIE: Yes.

Hon. Mr. BLACK: But the company is an organization doing business in the Maritime Provinces, and elsewhere in Canada and outside of Canada?

Mr. OGILVIE: Yes.

Hon. Mr. BLACK: Now, you secure a licence for your ships, not for any one ship.

Hon. Mr. HOWE: Yes.

Mr. OGILVIE: In other words we can apply at any time for hypothetical ships that we have not yet chartered. We can do hypothetical business.

Right Hon. Mr. MEIGHEN: I think you have to have the ships to get the licence. The licence says how many ships there are, and names them, so it amounts, really, to an individual licence for each ship.

Hon. Mr. CALDER: The ship must be inspected.

Hon. Mr. BLACK: Do you not allow the company to have a blanket licence?

Right Hon. Mr. MEIGHEN: Oh, no.

Mr. OGILVIE: I am sure the average person does not realize the difficulties you are going to get into.

Hon. Mr. HOWE: How many trips have you run to the Great Lakes this year?

Mr. OGILVIE: We have not run any.

Hon. Mr. HOWE: Then you are talking about a situation that has not yet arisen.

Mr. OGILVIE: You can never tell when we are going to.

The CHAIRMAN: That is the hypothetical situation.

Mr. OGILVIE: After all, if you are going to murder me to-morrow, why should I not object to-day?

Hon. Mr. HOWE: Your objection is hypothetical.

Mr. OGILVIE: No, no.

Right Hon. Mr. MEIGHEN: He is speaking not only for his own company but for others that do business with his company, and who are shipping now into the Great Lakes.

Mr. OGILVIE: I am speaking for the Interprovincial Steamships, and others.

Hon. Mr. BLACK: What is that company that has three boats doing regular business now?

Mr. OGILVIE: That is the Interprovincial Steamships.

Hon. Mr. BLACK: They have their regular ships, and can get a licence covering those ships.

Mr. OGILVIE: Yes. But you do not realize that there is a lot of cargo carried on time-charter boats, and if you confine the cargo to boats you own yourself, you limit business a good deal. After all, if you are going to build up a country and build up trade you will have to use every effort. Other countries are lowering tariffs and doing away with restrictions. We are putting them on. You cannot blame shipping for the railways' trouble.

Hon. Mr. BLACK: Captain Ogilvie's objection is the same objection that comes from attempting to regulate ocean and coastwise shipping. It is a difficult situation.

Mr. OGILVIE: And it is difficult to regulate shipping.

Hon. Mr. BLACK: This takes into consideration those vessels that are chartered in transit. They are usually British.

Mr. OGILVIE: They must be British.

Hon. Mr. BLACK: But they are down in the West Indies, off the South American coast or in the canal. These people charter them to take sugar or coal into the Great Lakes, and they want a return cargo.

The CHAIRMAN: We all object to being regulated. I do. But this is a day of regulation.

Now, should this company with its vessels be allowed to go unregulated when others are being regulated?

Hon. Mr. BLACK: The only way you can meet that situation is to consider these ships in just the same way as you do a British ship which comes in, goes up the St. Lawrence and takes a cargo without a licence in any way.

I thought you were representing regularly established lines.

Mr. OGILVIE: No. I represent the Dominion and Nova Scotia.

The minister remarked that shipping in England is regulated. In so far as rates are concerned it is not regulated.

Hon. Mr. HOWE: What do you say about the tramps? Is there one that does not have a minimum and maximum rate?

Mr. OGILVIE: In many cases, yes.

Hon. Mr. HOWE: I would like to have a list of those that are outside the tramp agreement.

Mr. OGILVIE: I will get it for you. The minimum rates were fixed by the tramp owners for their own benefit, but these rates are being fixed by the government.

Hon. Mr. HOWE: The government is not fixing the rates. The rates will be fixed by the boats.

Mr. OGILVIE: But subject to the approval of the board.

Hon. Mr. HOWE: Oh, no.

Mr. OGILVIE: Oh, yes. You have to file your rates to get the board's approval.

Hon. Mr. HOWE: No, no.

Mr. OGILVIE: Then what are we talking about?

Hon. Mr. HOWE: All we are getting out of this is publicity as to what the rates are.

Mr. OGILVIE: Then you can pass a law saying that any rate agreed on must be published in the paper. There is no objection to that.

Hon. Mr. HOWE: That is filed with the Railway Board.

Mr. OGILVIE: But why give them power to reject that rate?

Hon. Mr. HOWE: We find that a boat publishes the rate but does not follow it.

Mr. OGILVIE: You have heard of secret rebate.

Hon. Mr. HOWE: Try one and you may lose your licence.

Mr. OGILVIE: And we might lose it for an offence not as heinous as secret rebating.

Right Hon. Mr. MEIGHEN: Under the general section, in this case section 4, where you make the provisions of the Railway Act apply as respects tariffs and tolls and all the rest, you bring the board in to the extent of requiring its approval.

Hon. Mr. BLACK: Suppose a British tramp comes from Yokahama to Vancouver with a cargo, and wants to go on to Victoria, there is a similar situation. I do not think there is anything in this Act whereby the Board of Transport Commissioners will change the rates. They have to be filed, but that is not a regular service.

Right Hon. Mr. MEIGHEN: No, but you bring every one of those under the provisions of the Railway Act as to tariffs and tolls. The Railway Act says the rates must be approved.

Hon. Mr. HOWE: No. The rates just have to be filed. Any railway can file a rate and take the traffic. Later someone may object, but in the meantime they can take the traffic.

Mr. OGILVIE: But there is the possibility if we do not have a licence—

Hon. Mr. CALDER: May I ask a question? If a British boat owned in Britain comes across here with a cargo, part of which is for Fort William, can it go through the lakes without coming under this law?

Hon. Mr. HOWE: Yes.

Hon. Mr. CALDER: Is the same true of a United States boat?

Hon. Mr. HOWE: Yes.

Hon. Mr. CALDER: Then I think that these boats that are plying down by the sea, mainly, should be put in the same class. The great bulk of their coastal trade is sea trade.

Hon. Mr. HOWE: There is a difference between a through routing and coasting. If you let a boat go up and coast it comes into competition with another class of trade that we are regulating.

Hon. Mr. CALDER: But it seems to me that if you let the British boats or the United States boats or any other that plies on the seas go through with a cargo to a point like Fort William, I think the same condition should apply to these boats.

Mr. OGILVIE: I think the minister is confused. He spoke of our taking our boats and trading between Fort William and Port Colborne. In that case I say yes, we should be regulated. But I maintain that any shipment originating in or destined to the Maritime Provinces should be granted the same privilege as is granted to a foreign boat. The minister has said that shipping in the United Kingdom is regulated. It is not regulated by the government but by a tramp tonnage pool. England, the greatest maritime nation in the world, the nation with the most tonnage and the most efficient laws, allows Dutch coasters to trade on its coast.

Hon. Mr. CALDER: I think this Committee has come to the conclusion that in so far as the Great Lakes are concerned there must be regulation. Now, if we can amend the Bill in such a way that your people down there will be privileged to take a cargo of sugar to Fort William—

Mr. OGILVIE: I think the Maritimes would be very well satisfied with that.

Hon. Mr. CALDER: If a boat wants to call at this point and that point, and so on, it gets into the Great Lakes transportation problem.

Mr. OGILVIE: But if it picks up a cargo at some intermediate point, additional cargo, for the Maritimes, that should not be regulated. For instance, if a boat from Fort William stops at Kingston and picks up additional cargo, that should not be regulated.

Hon. Mr. CALDER: We have been struggling to devise some provisions for regulating all traffic on the Great Lakes. There is need for this regulation.

Mr. OGILVIE: Do not misunderstand me, sir. I am saying that if a boat stops somewhere for the purpose of picking up additional cargo for the Maritimes, that should not be regulated. Anything originating to or from the Maritimes should be exempt. The Government has never given us any assistance in that trade, so why should the Government regulate us? We are not clamouring for assistance.

Hon. Mr. DANDURAND: The Government is not giving assistance to other boats plying on the Lakes, yet these are to be regulated.

Hon. Mr. HOWE: The Government gives you assistance by building canals, for example.

Mr. OGILVIE: Yes, but that is public money. And public money is spent on railways deficits.

Hon. Mr. MACARTHUR: You mentioned that you have not had any business this year. Is not the fact that the business has not yet opened up?

Mr. OGILVIE: No. We are not in that business ourselves.

Hon. Mr. MACARTHUR: You are speaking not only for yourself, though.

Mr. OGILVIE: I am speaking for the Maritimes.

Hon. Mr. MACARTHUR: You have had no business this year?

Mr. OGILVIE: The reason is that we have no boats in that particular trade. But why should we allow something to go through that affects a trade in which we might become interested?

A ship owner does not carry a cargo between Halifax and Canso every day. The shipping business in order to survive must be flexible, and this Bill is not flexible.

Hon. Mr. MACARTHUR: Had you business at this time last year?

Mr. OGILVIE: Yes, but not in the lakes.

Hon. Mr. ROBINSON: His own company is not in this business, but other companies down there are, as we know.

Mr. OGILVIE: That does not say we will not want to engage in that trade some time.

Hon. Mr. ROBINSON: Is that trade growing?

Mr. OGILVIE: Certainly. There was a ship bought last fall for the trade, the *Maid of Sterling*.

Hon. Mr. DANDURAND: That is in competition with the railways?

Mr. OGILVIE: Absolutely. But what is the difference. The people pay the deficits. Why make us pay it both ways?

Hon. Mr. BLACK: I suppose we can consider this later on.

Right Hon. Mr. MEIGHEN: I would suggest that members of the Committee read section 314 of the Railway Act and see if they can convince themselves that shipping can be brought under that section, or what Mr. Oglivie says is not correct. Section 314 is a most rigid provision which we seek to apply to shipping by section 4 of this Bill.

Hon. Mr. TANNER: Mr. Chairman, I just want to say a few words about the matter Captain Oglivie was discussing.

Hon. Mr. DANDURAND: We shall be coming back to that matter later.

Hon. Mr. TANNER: I am not a member of the Committee and I may not be here later. I shall be brief. I do not know Captain Oglivie, never saw him before, but having lived by the ocean all my life I know something about the subject he discussed. I know some of the people who are engaged in the business he was talking about, and I am familiar with the difficulties those people have had in initiating and building up that business. Also I am aware of the excellent service they are giving to the Maritime Provinces by bringing down flour and feed stuffs. One of the very strong desires of the farming population in Nova Scotia, and I presume in the other Maritime Provinces as well, is cheaper feedstuffs, and these shipping people are making that possible, by bringing down feedstuffs and landing them in different ports of the Maritimes.

When Captain Oglivie suggested that most members of the Committee are not fully acquainted with the intricacies and difficulties of the shipping business he was, without any offence, telling the truth. Only people who live amongst those shipping men, or who are engaged in the business, understand how difficult it is to carry on the trade that he mentioned. I simply want to commend what he said and to protest against any idea that that business can be handled by red tape. It cannot be done that way successfully. If you subject that business to Boards and so on you will just kill it.

Sections 30 and 31 were agreed to.

On section 32—Power to seize and detain.

The LAW CLERK: This section deals wholly with forfeiture. In my opinion it should be stricken out, and my friend Mr. Varcoe concurs.

Hon. Mr. HOWE: Yes, that whole section can come out.

The CHAIRMAN: Is it your pleasure to strike out the whole of section 32? Section 32 was stricken out.

On section 33—Liability of officers, directors and servants of corporation:

The LAW CLERK: I would ask consideration of the word "servant" in this section. A servant may be acting under directions.

Right Hon. Mr. MEIGHEN: That word should be stricken out.

Mr. VARCOE: It corresponds to a clause in the Railway Act.

Mr. FLINTOFT: I do not think we have had any trainman convicted under the similar provision of the Railway Act.

The LAW CLERK: That provision may have gone into the Railway Act originally without consideration of the point I am raising, that a servant may be acting under directions.

Mr. FLINTOFT: What about a master or mate? They might be the very ones who would bring about an offence.

Right Hon. Mr. MEIGHEN: If they committed an offence and the company had to pay a fine, they would not be likely to keep their positions long. Why should we continue the absurdity of making a servant liable?

The CHAIRMAN: There is an amendment, to insert the word "or" after the word "officer" in line 3 and to strike out the words "or servant" after the word "director."

The amendment was agreed to, and the section as amended was agreed to.

On section 34—limitation of proceedings:

Hon. Mr. MORAUD: Why twelve months?

Right Hon. Mr. MEIGHEN: It is just a limitation.

The section was agreed to.

RECONSIDERATION OF SECTIONS RESERVED

Hon. Mr. DANDURAND: We reserved clauses 14, 15, 16 and 17 for further consideration.

The LAW CLERK: I should like to explain that my friend, Mr. Varcoe, and myself have not had much time to discuss these amendments so if, from the Government standpoint, he sees anything wrong with what is exclusively my drafting, I wish him to state that I have not expressed our joint views.

These are the amendments:—

On section 6, subsection 2:

Page 5, line 18: Strike out "of" at the end of the line. Substitute "not exceeding."

Page 5, line 21: Strike out "of" being the third word from the end of the line. Substitute "not exceeding."

The amendments were agreed to.

Page 5, line 19: Strike out "registered." Substitute "register."

The LAW CLERK: This is technical. There is a difference between registered tonnage and register tonnage, and in some boats it may make a very great difference. I do not know whether registered or register tonnage was intended, so I purposely put this amendment in to strike out "registered" and substitute "register", to see what would be the result. What do you think, Mr. McDonnell?

Hon. Mr. DANDURAND: Will you explain the difference, Mr. McDonnell?

Mr. McDONNELL: The word "register" generally means the net tonnage of the ship; but registered tonnage might mean the tonnage which is shown on the ship's register, and it might either be net or gross tonnage. The net tonnage or register tonnage varies very considerably in respect of the size of the ship. I would suggest that instead of saying "register tonnage" or "net tonnage", I would put it "gross tonnage."

Hon. Mr. ROBINSON: What is the effect? It increases the fine, does it?

Mr. McDONNELL: It is not for that purpose. Net tonnage or register tonnage are both the same. But there is quite a range of variation between the net tonnage and the gross tonnage.

Hon. Mr. ROBINSON: But the effect will be to increase the fine?

Mr. McDONNELL: Yes.

Hon. Mr. CALDER: Gross tonnage has but one meaning?

Mr. McDONNELL: Yes. Net tonnage or register tonnage has but one meaning; but the ratio between the net tonnage and the gross tonnage varies very considerably in two ships of the same size.

The amendment was agreed to.

Subsection 2 as amended was agreed to.

On subsection 3, section 6:

The LAW CLERK: Page 5, lines 25 and 26. Strike out "may if he believes that an offence has been committed against this Part."

Substitute the following: "if he believes that any ship to which this Part applies is transporting, or after the coming into force of this Part has transported, passengers and/or goods without a licence, in contravention of this Part, may"

Hon. Mr. BEAUBIEN: When you say "is transporting," must that not be interpreted at the time of the coming into force of this Part?

The LAW CLERK: Yes. The words "is transporting" will not have any life or effect until this Act is brought into force.

The amendment was agreed to.

Subsection 3 as amended was agreed to.

On section 10, subsection 5:—

The LAW CLERK: This is the amendment to clause 10, page 6, line 39:—

Add after subclause five as subclause six the following:—

- (6) The provisions of subsection five shall apply only to
- (a) interurban air services and
- (b) cases where the Board reports to the Minister, as, upon being satisfied as to the facts, it may, that within a particular stated area, or between particular stated points or places a reasonable regular air service has been established and is being maintained, to which service, in the opinion of the Board, all the provisions of this Part may fittingly be applied.

The amendment was agreed to.

Subsection 5 as amended was agreed to.

On section 14—Minister may license commercial vehicles:—

The LAW CLERK: These are the amendments of section 14, page 8, line 2: Between "transport" and "goods" insert, "or to carry, as the case may be."

On section 14, subsection 4:

The LAW CLERK: Gentlemen, I said yesterday I thought I could draw up, so as to save every valuable right desired and still get rid of any constitutional

issue, certain amendments. That is what I have attempted in the amendments I am now going to present.

Page 8, lines 8 to 11:—

Strike out subclause four. Substitute the following:—

- (4) The Minister may, in any licence relating to a public commercial vehicle or vehicles, prescribe
- (a) the schedule of services which shall be thereby maintained, and
 - (b) the route or routes which, subject to the laws of any province affected, shall be thereby followed.

That gives the province control over the physical road, and over the demeanour and behaviour, and that sort of thing, of the driver of the vehicle, which I think is the provinces' privilege.

The CHAIRMAN: This amendment will take the place of present subsection 4 of section 14. What is your pleasure, gentlemen?

The amendment was agreed to.

The LAW CLERK: Page 8, lines 17 to 27. Strike out subclause 6. In substitution for subclause 6 amend subclause 5 by adding at the end thereof the following:—

—, nor shall the Minister issue a licence in respect of any public or private commercial vehicle the licensed route whereof runs, in whole or in part, over any part of any Dominion highway unless the Board has certified that the vehicle conforms to such standards of design and operating efficiency as the Board deems necessary for like vehicles travelling on the Dominion highway concerned, and it shall be a condition of every such last-mentioned licence that the licensed vehicle shall be maintained in a fit and serviceable state, and the Board may at any time suspend or cancel such licence if the licensee fails or omits, on demand, to satisfy the Board that the vehicle is being so maintained.

Hon. Mr. DANDURAND: I move the adoption of this amendment.

The motion was agreed to.

The LAW CLERK: Then there is an amendment to clause 15, page 8. Strike out clause 15 and substitute the following:—

The Board may, with the approval of the Governor in Council, make regulations

- (a) for executing all or any of the purposes of the next preceding section;—

That brings in the power of looking after the kind of vehicle.

- (b) prescribing the procedure and basis upon which renewal of any licence under this Part may be granted; and
- (c) generally, looking to the proper administration of this Part.

They cannot make any regulation unless it is within the wording, and I see no objection to making the power to establish regulations flexible.

Hon. Mr. CALDER: In other words, the Board is not given power to make any regulations with regard to the routes used for interprovincial or international traffic.

The LAW CLERK: Dealing with the route is dangerous.

Hon. Mr. CALDER: Or dealing with hours of work.

Hon. Mr. DANDURAND: I move the adoption of the amendment.

Mr. FLINTOFT: Do I understand Mr. O'Connor to take the view that what he has done would be sufficient to enable the Board to prescribe the form of the licence plate?

The LAW CLERK: Oh, yes, with regard to Dominion routes.

Mr. FLINTOFT: With respect to any vehicle which is licensed under this Act it seems to me that to make the licence effective you must put the licence plate on the vehicle, and it seems to me that the form of that licence plate should be prescribed by the Board.

The LAW CLERK: I understand. I think they would certainly have the power to put a licence plate on this truck.

Right Hon. Mr. MEIGHEN: But not to exempt it from the provincial plate.

The LAW CLERK: Oh, no.

Mr. FLINTOFT: Many carry two or three plates.

The proposed amendment was agreed to.

The LAW CLERK: Page 9, clause 16. I thought it wise not to alter the wording of section 16, but to transpose it so as to make the intent clear. Strike out subsection 1 of 16 and substitute the following:—

No goods or passengers shall be transported by means of a public or private commercial vehicle upon a Dominion highway or in inter-provincial or foreign trade unless the vehicle is licensed under this Part.

Hon. Mr. HOWE: That is all right.

The proposed amendment was agreed to.

The LAW CLERK: Page 9, lines 10 to 13—

The CHAIRMAN: Subsection 2.

The LAW CLERK: I am still on clause 16. Strike out "and not less than two hundred dollars, and every motor vehicle by means of which goods or passengers are transported contrary to the provisions of this Part shall be subject to forfeiture as hereinafter provided."

The proposed amendment was agreed to.

The LAW CLERK: Now, in clause 17, page 9, lines 20 to 22, strike out sub-clause 1, and substitute the following:—

This part shall not come into force until proclaimed as in force by the Governor in Council, and thereafter it shall not be in force on, or in respect of, any Dominion highway until likewise proclaimed as in force on, or in respect of, that highway.

The part in general shall not come into force until proclaimed; then, assuming it to be proclaimed with respect to any specific highway, it shall still not be in force until it is proclaimed to be in force with respect to that highway.

Right Hon. Mr. MEIGHEN: To bring it into force in general does not bring it into force with respect to interprovincial and international traffic.

The LAW CLERK: Yes.

Mr. VARCOE: I would point out that the effect is different from what was originally intended. There are many provincial highways to which it was not intended to apply this Act at the outset. Under the clause as it is in the Bill it was to be applied by highways, so to speak. But if this is passed in its present form it will come into force on every highway in Canada except the so-called Dominion highways.

The LAW CLERK: I found in the Act a provision which related only to the bringing into force of the law as it affected highways. I thought that was

unconstitutional so far as provincial highways were concerned, so I confined it to Dominion highways.

Then I understood that I was asked yesterday to provide that Part VI should not come into force so that any part of it can apply anywhere until proclaimed as in force by the Governor in Council.

Right Hon. Mr. MEIGHEN: It is all a question of whether the Government wants the Act to become applicable by highways or to be generally applicable in respect of highways first, when so proclaimed, and thereafter by Dominion highways one by one. By the amendment it is generally in force in respect of such highways as it applies to.

The LAW CLERK: Yes. That would be the Dominion highways. Oh, I see. It is the traffic.

Mr. VARCOE: The only application the Act has is to the traffic on particular highways under the present clause 17; but if clause 17 as Mr. O'Connor has drafted it comes into force, then as soon as the Act is proclaimed it will apply to every highway in Canada.

Hon. Mr. DANDURAND: I would suggest that this remain in abeyance so that the two points of view may be reconciled.

Right Hon. Mr. MEIGHEN: Mr. Howe, I understand that this will not be applicable to the traffic on certain highways.

Hon. Mr. HOWE: As they are proclaimed.

The LAW CLERK: If Mr. Varcoe is instructed what is desired, I would be content with his draft.

Hon. Mr. HOWE: I have one amendment to suggest.

Mr. MASON: Before leaving this, Mr. Chairman, may I ask the Minister whether he has considered the amendment suggested yesterday? The amendment now suggested does not go far enough, for it touches only the part respecting highways.

Hon. Mr. HOWE: My understanding was you suggested that Part IV, relating to transport by highway, should not come into force until proclaimed by the Governor in Council.

Mr. MASON: I went a little beyond that. My suggestion was that a section be added at the very end of the Act, providing:—

Nothing in this Act relating to transport by highway shall come into force before a date to be fixed by proclamation of the Governor in Council published in the *Canada Gazette*.

If that section were added it would put me in a position where I should not have to challenge the constitutionality of the Act until you proclaimed it.

Hon. Mr. DANDURAND: Do the Law Officers understand the suggested amendment?

Mr. VARCOE: Yes, sir.

Hon. Mr. HOWE: In case I should not be able to get here again, may I suggest an amendment to clause (i) of section 2, page 2? After the words "a place outside of Canada," at the end of line 17, I should like to add these words: "or through Canada between ports outside of Canada."

The amendment was agreed to.

Hon. Mr. BLACK: Would it be possible to make an amendment to meet the objections raised by Captain Ogilvie, so as to exempt ships carrying cargo from Maritime ports and ports outside of Canada to the Great Lakes, but not doing a coasting business on the Great Lakes or on the St. Lawrence? That would give Canadian ships the same right that British ships have. As Captain Ogilvie pointed out, he can charter a boat down in the West Indies, say, and

bring up a cargo of raw sugar to a Montreal refinery; then the boat can go to Fort William and load a cargo of flour and feed, and bring this down to the Maritimes. The amendment giving the exemption asked for would simply give Canadian ships the same privilege that all other British ships have.

The CHAIRMAN: Perhaps it is hardly fair to ask Mr. Howe to express an opinion offhand.

Hon. Mr. HOWE: I should not like to make a snap decision. I think we should hear the shipping interests.

Right Hon. Mr. MEIGHEN: If Mr. Howe could meet the views of Captain Ogilvie I should be pleased, and also the views of Senator Haig.

Mr. SMITH (representing Montreal Board of Trade): Mr. Chairman, I should like to make an observation. The principal cargo mentioned by Captain Ogilvie as moving from Maritime ports to Fort William was sugar. I certainly would object to exemption of ships carrying sugar from Saint John and Halifax, while ships carrying the same kind of cargo from two refineries in Montreal are regulated. I think that would be most unfair.

Hon. Mr. PARENT: Yes, it would.

The CHAIRMAN: This point cannot be settled now; it will have to stand over a little while.

The Committee adjourned to meet again after the Senate rises this afternoon.

The Committee resumed at 5.15 p.m.

The CHAIRMAN: Clause 17. The amendment proposed is as follows: Strike out subsection 1 of section 17, and insert the following:—

The provisions of this Part and also any other provisions of this Act in so far as they relate to transport by highway shall not come into force in any province until proclaimed by the Governor in Council to be in force in such province and thereafter shall apply in any such province only to the transport of goods and passengers on Dominion highways and in interprovincial and foreign trade on other highways to which the said provisions are made applicable by proclamation of the Governor in Council.

The amendment was agreed to.

The CHAIRMAN: Is there anything else?

Hon. Mr. DANDURAND: I think that is all.

Hon. Mr. HAIG: Is it the intention before we consider the Bill to reprint it with the amendments? You cannot follow the Bill at all as it is.

Hon. Mr. DANDURAND: It will be reported to-morrow to the Senate, and the report will be put down for consideration on Tuesday next. In the meantime the Bill can be reprinted.

I move that we report the Bill.

Hon. Mr. BLACK: Some communications have been received to-day along the lines of the objections made by Captain Ogilvie this morning, and I think they are worth placing before the Committee.

The CHAIRMAN: The first communication is a telegram from John E. Sayre, Vice-President, Saint John Board of Trade.

SAINT JOHN, N.B., March 10, 1937.

HON. G. P. GRAHAM,
Chairman, Senate Committee,
Railways, Telegraphs and Harbours.

Regarding telegram to-day from the Transportation Commission of the Maritime Board of Trade. We wish to endorse in toto the case

against water regulation between the Maritime Provinces and Central Canada.

John E. SAYRE,
Vice-President, Saint John Board of Trade.

The next telegram is as follows:—

SAINT JOHN, N.B., March 10, 1937.

Hon. G. P. GRAHAM,
Chairman, Senate Committee,
Railways, Telegraphs and Harbours,
Ottawa.

The Transportation Commission of the Maritime Board of Trade representing as it does the Governments of the three Maritime Provinces desires to protest most vigorously against the inclusion in Bill B of water transportation between the Maritime Provinces and ports of the St. Lawrence and Great Lakes. It would appear from the minutes of the proceedings before the Senate Committee that practically all the shipping on the Great Lakes had become bankrupt and that 75 per cent of the shipowners are asking the Government to relieve the situation there by controlling freight rates. We have no objections to controlled freight rates between ports on the Great Lakes or the St. Lawrence river if this is necessary in order to clear up the unfortunate situation which has developed in that area. We do not, however, see why the Maritime Provinces should be dragged into this situation as all shippers and all owners of steamers in the Maritime Provinces are strongly opposed to this being done. It is putting us back to the position where we were when the Duncan Commission submitted its report in 1926. If the Committee will examine the Duncan report they will see that one of the reasons the Maritime Provinces were induced to go into Confederation was because we would be given access to the markets of Central Canada and at reduced freight rates so as to overcome the effect of our isolation from these markets. The Maritime Freight Rates Act has been of tremendous help to us in this regard and has given us a new lease of economic life. Of equal importance, however, to our economic life is the maintenance of low water transportation charges. The inclusion of the trade between the Maritime Provinces and Great Lakes and St. Lawrence ports in Bill B must inevitably lead to higher freight rates. Indeed this can be the only purpose of the Bill. It is not a fair argument to say, as was said before the Committee by the Minister of Transport, that it is necessary to regulate this trade because similar industries on the Great Lakes will have their rates regulated. This argument overlooks the whole history of Confederation and the fact that we have to pay freight on the transportation of goods a thousand miles to Montreal in order to compete with the industries in Central Canada. It is believed by all who have studied the problem here that the inclusion in this Bill of regulation of water transportation between the Maritime and the Central Provinces will greatly retard the economic life of the Maritime Provinces within Confederation.

F. Maclure, SCLANDERS,
Hon. Secretary,

Rand H. MATHESON,
Manager,
*Transportation Commission of the Maritime
Board of Trade.*

Hon. Mr. BLACK: I also have a message from Halifax which I should like to put on record. It is as follows:—

HALIFAX, N.S., March 10, 1937.

Hon. F. B. BLACK,
The Senate,
Ottawa.

Ministers proposal control rates Maritime Provinces to lake ports very detrimental Halifax Saint John port traffic, as large volume traffic coming here from Far East goes forward by water to lake ports. Control of rate will divert this traffic to Montreal and possibly prevent Far East steamers calling here on way to New York. Maritime industries must have water competition to compete with railway as the benefits of Duncan Commission, have been largely eliminated by railway commodity tariffs. Control of water rates can only be for purpose of increasing these rates. It has been laid down by Railway Commission that tariffs cannot be made to overcome geographic position; if this is so why should geographic position which by nature provides us with a competitive water route to interior points be overcome by legislation. The whole thing is wrong and the Bill should be deferred for a year until various interests can be properly represented in the discussion.

H. R. SILVER.

Hon. Mr. HOWE: You would think that we were closing up all navigation between the Great Lakes and the Maritimes. Captain Ogilvie says his steamships would be ruined if we put in regulations, and we have an important Board of Trade saying the rates would go up. The two statements seem inconsistent. What do the Maritimes think we are going to do with these rates?

Hon. Mr. BLACK: If the control of lake traffic goes into effect it might easily have the result of putting all these ships that ply between Maritime ports and Great Lake ports out of business, because the larger volume of traffic would necessarily control.

Hon. Mr. HOWE: To come to that conclusion you would have to assume that the Transport Board would be entirely unfair. Why would they interfere with any rate that was filed?

Hon. Mr. BLACK: The people of the Maritimes clearly feel, as is indicated in these wires, that they have access to the markets of Montreal and further west by reason of cheap water rates in the summer.

Hon. Mr. HOWE: They will be just as cheap under regulation as without it, as far as I can see.

Hon. Mr. BLACK: If they could be assured of that they would be greatly relieved, but there are provisions in this Bill that could easily prevent that.

Hon. Mr. HOWE: I cannot imagine any clause that would have that effect.

Hon. Mr. BLACK: The Board have the right to control rates. Someone will come in, perhaps a railway or some other association or organization, and say the rate is entirely too low.

Hon. Mr. HOWE: The Transport Board will never regulate one form of transportation for the benefit of another. That can be stated in the Act, if you like.

Right Hon. Mr. MEIGHEN: If that is so there is no regulation at all. What these people are afraid of is regulation. I accept what you say as to intention, but you have section 4 of the Bill, which brings section 314 of the Railway Act into effect with respect to shipping. If a rate is filed and not approved it cannot be charged again, and they can be directed what they will charge, and so on. Therefore they are afraid of regulation. If all you want is the measure of

publicity which is secured by the filing of rates with the Commission, why not say just that?

Hon. Mr. HOWE: How are you going to police it unless you have a Board?

Right Hon. Mr. MEIGHEN: You have the Board; say they must file and report to the Commission all rates charged. That is not regulation. It is just publicity.

Hon. Mr. HOWE: I agree fully that this whole Act should be rewritten, but I think if we rewrote it without experience of all the problems we would get into trouble. My desire is that we use this to get experience.

Hon. Mr. DANDURAND: I would suggest to the Committee that we allow this Bill to go into force and be applied for a year by the Board. We shall all be here in January next, I hope, and I think that all the fears expressed will have disappeared under the application of the act.

Right Hon. Mr. MEIGHEN: I think the fears will disappear through non-application of the Act.

Hon. Mr. HOWE: This Government is not a glutton for punishment. It is not going to put the Maritime shipping trade out of business.

Right Hon. Mr. MEIGHEN: It would know what a roar meant if it did that.

Hon. Mr. CALDER: Mr. Ogilvie told us this morning that they carried sugar from Halifax to the head of the Lakes at 22 cents per 100 pounds.

Hon. Mr. HOWE: At 18 cents. I think he said the railroads carried it at 22 cents in the summer and 44 cents in the winter.

Hon. Mr. CALDER: I suppose what applies to sugar applies to anything else. Now, if those people are brought under this Bill as it is now worded could they continue to carry that sugar at 18 cents per 100 pounds?

Hon. Mr. HOWE: Certainly. All they need to do is to file a rate.

Hon. Mr. CALDER: And if the rate from Montreal to the head of the lakes is higher, they do not need to conform to that, do they?

Hon. Mr. HOWE: No.

Hon. Mr. BLACK: If that is the case, why invoke that part of the Railway Act which makes it possible for this board to control all rates?

Hon. Mr. DANDURAND: So that there may be uniformity from the head of the lakes to Montreal.

Hon. Mr. CALDER: I think there is only one argument against that, and I have already mentioned it, that all British ships other than Canadian ships can come up the St. Lawrence, go where they like and charge what they like.

Hon. Mr. HOWE: They cannot coast there; they can make only one trip in there.

Hon. Mr. CALDER: I presume that is what these Maritime boats would be doing. American sea boats can do the same thing.

Hon. Mr. HOWE: The Maritime boats want the privilege of coasting.

Some Hon. SENATORS: No.

Hon. Mr. CALDER: No. I understood they wanted the privilege of picking up cargo for the Maritimes.

The CHAIRMAN: I think Mr. Doherty wants to say a few words.

Mr. JOHN P. DOHERTY, Manager, Lake Freight Association, Montreal: Mr. Chairman, I think perhaps there may have been some opportunity given this morning for confusion because of the wide generality and the scope of the submission made by Captain Ogilvie, inasmuch as he brought to your attention cargoes coming from foreign ports into the lakes and he also referred to movements as between the Maritime Provinces and the lakes. He also told you that his business did not embrace any of this domestic trade. In other

words, he does not own or operate vessels in this particular trade, but he had it in mind that others who do operate vessels in this particular trade feel more or less as he does in opposing the Bill. What I should like to do is to distinguish between his cargo of sugar coming from Cuba, for example, and sugar coming from Halifax to Montreal, or the head of the lakes. Now, a British steamer or a foreign steamer—Scandinavian, if you like—can pick up a cargo of sugar in Cuba, which by the way would probably be raw sugar, and take that cargo into any port on the Great Lakes, or Montreal, let us say.

Hon. Mr. CALDER: Could it pick up refined sugar?

Mr. DOHERTY: No sir. Such a steamer could bring the sugar into the St. Lawrence or the Great Lakes. There would be nothing to prevent such a steamer from picking up a Canadian cargo in the lakes, or a cargo at a United States port in the lakes, and taking it to a foreign port. There is nothing in this Bill which would interfere in any way with that sort of business. What this Bill contemplates is taking care of our domestic business, which is something entirely different.

Captain Ogilvie said to you this morning that a steamer might come into Montreal with an inbound cargo and, having discharged that cargo, look for something to make up the other half of a round trip, and that she might possibly find it desirable to go to the head of the lakes for flour, if you like. Now, there is no objection to that. But she cannot go to the head of the lakes for flour and bring this down to a Canadian port in Eastern Canada. The steamers that Captain Ogilvie had in his mind are running in a regular service in the summer months from Saint John and Halifax into the Great Lakes and back. Under this Bill steamers in that service would be controlled in exactly the same way as steamers operating in the St. Lawrence river and in the Great Lakes, those that I speak for. It is hardly conceivable that one operator should receive different treatment from that which is received by another operator in and out of the same territory. The ships which I represent also carry sugar from Montreal to points in the Great Lakes; they also bring flour from the head of the lakes to Montreal. These are the same commodities that are handled by this company operating to and from the Maritimes. I cannot see why we should be controlled in our operations if this other company is not.

Hon. Mr. CALDER: I think Captain Ogilvie's point was that they find it profitable from their standpoint to carry back a commodity at a rate that would be lower than the rate that the ships you represent would charge. And he is afraid that privilege may be lost to his business. I assume, although he did not say so, that he is a broker or a chartering agent. He is not concerned with regular services, and he told us that he had no business last year.

Hon. Mr. ROBINSON: He is afraid the Bill would put them out of business in this traffic. What do you think about that?

Mr. DOHERTY: I cannot conceive that this Bill, as presently drawn, would put anyone out of business. If we had such a thought in our minds we probably would be entering serious protests to it. We feel there is going to be advantage because of the stability that will be brought about in a trade that has been very unstable for several years.

Hon. Mr. CALDER: What do you mean by stability?

Mr. DOHERTY: I mean having a rate that is known and that will be maintained from time to time.

Hon. Mr. CALDER: That would mean that the ships in which Captain Ogilvie is interested could not charge the lesser rate, which the minister has told me can be charged now.

Mr. DOHERTY: Of course we naturally anticipate that in the operations of the board there will be some relationship as between rates. There must be

relationship if you are going to have stability. For example, Mr. Chairman, the sugar refinery in Halifax is undoubtedly competing in upper Canada with the same class of business in Montreal. Well, there must be some relationship if there is going to be stability. As I understand it, it will be the duty of the board to see that such relationships and stabilizations are brought into being.

Hon. Mr. ROBINSON: If these people were exempted from this Bill would it make any difference to the operation of the other steamship companies?

Mr. DOHERTY: It would be bound to.

Hon. Mr. BALLANTYNE: Mr. Doherty, supposing a broker in the Maritime Provinces had a lower rate than yours, what action do you think the Board of Transport would take?

Mr. DOHERTY: I cannot anticipate what action the Board would take, sir.

Hon. Mr. BALLANTYNE: You say there must be stabilization.

Mr. DOHERTY: I feel that if this Bill is to be successful, and I am sure it would be under the operation of the Board, there must be relationship between the rates.

Hon. Mr. BALLANTYNE: If the Maritime man's rate was, in the opinion of the Board, too low, would the Board not notify him to raise it?

Mr. DOHERTY: I cannot say, sir.

Hon. Mr. CALDER: That, Mr. Chairman, is the whole point here, and we must have a clear understanding about it before we make up our minds. I have been told two or three times that if in circumstances like this one of those Maritime boats puts in a rate of 18 cents per 100 pounds, though that is lower than the rate fixed for the rest of the boats operating in that trade, that rate would stand. I am led to understand we are working towards stabilization, and that there is not only a possibility but a likelihood that the rate would not stand.

Those two statements do not jibe at all. We should have a clear understanding as to what is to happen in this case. Now, assuming these boats are brought in under the law, and they decide they cannot maintain that service unless they get ingoing cargo at a certain rate, we will say 18 cents, up to Fort William. When figured out that rate is lower than they charge from Montreal under the stabilized rate. In other words, unless they can get business at that rate they are out of the picture from their standpoint. Which is the situation?

Hon. Mr. HOWE: I am sorry Mr. Campbell of the Board of Railway Commissioners is not present. My understanding of his explanation the other day is that anybody could lower a rate on three days' notice, but cannot raise it for a month.

Hon. Mr. CALDER: I asked that question very early in our discussion, whether, when a rate was filed, it was fixed unless there was objection taken to it.

Hon. Mr. HOWE: That is right.

Hon. Mr. CALDER: Then I asked the further question: If there is objection taken to it, and it is threshed out, and the Board fix a lower or higher rate, that is the rate fixed. That is the answer I got.

Hon. Mr. HOWE: I suppose the Board has that power. But it would have to be shown the rate was discriminatory before the Board would change it. I think that is the explanation Mr. Campbell gave.

Hon. Mr. HAIG: Take this case. A boat loads at Halifax with sugar for Fort William, where it discharges its cargo. There is no return cargo immediately offering. The owners bid for a cargo. We will say they agree to take chicken feed back to Halifax at a cent a bushel. Your regular or stabilized rate has been fixed at six cents. They can afford to take the one cent rate because they had the cargo of sugar in, and they get as much as possible on the cargo out. What happens?

Mr. DOHERTY: My best answer to that, sir, is that in fact in normal practice such a situation does not arise.

Hon. Mr. HAIG: It has been arising for the last six or seven years.

Mr. DOHERTY: Not to that extent.

Hon. Mr. BLACK: That may be an exaggeration.

Hon. Mr. HAIG: I am stating the case as it has been presented to me.

Mr. DOHERTY: We can have any number of hypothetical cases and make the situation very dark on the one side or perhaps very rosy on the other as you build up your point, but in actual practice that does not happen. These vessels of which we have been talking operate between Halifax and the head of the lakes. They have business that is moving, because they are giving service in their operations and they have cargo booked ahead coming east, as they have cargo booked ahead going west. They are not in the bulk grain trade to any extent; they do carry small parcels from time to time; but they are purely passage freight operators.

Hon. Mr. BALLANTYNE: But you and the Minister do not agree.

Mr. DOHERTY: I am very sorry if that is so. I did not wish to be in disagreement with the Minister.

Hon. Mr. BALLANTYNE: The Minister has assured the Committee that he merely wants the rates filed, that it is not the intention to raise rates. Now you say you are aiming at stabilization of rates, and if a man is too low in his rate he is liable to be communicated with by the Board of Transport and told that it is too low and he had better raise it.

Mr. DOHERTY: I have not suggested that the Bill contemplates any such action; but I will give you a very fair and definite answer of my own, that it might be to the benefit of transportation if such did arise.

Hon. Mr. HOWE: We have railway men working under this Act. I should like to ask if they have ever been asked by the Railway Board to raise a rate.

Right Hon. Mr. MEIGHEN: On Mr. Campbell's own statement is not this the case? We will say a Maritime ship picks a cargo at a certain rate. Having done that it cannot raise the rate for another month.

Hon. Mr. HOWE: That is right.

Right Hon. Mr. MEIGHEN: It may have taken a very low rate because of the exigency. But that exigency does not last more than a day, and a week afterwards it may find it can get a better rate. It cannot do so if this Bill goes into effect.

Hon. Mr. HOWE: That is what we are trying to avoid.

Right Hon. Mr. MEIGHEN: It cannot change its rate to suit the exigency. So the Bill does contemplate a great deal more than the mere filing of rates.

Hon. Mr. McRAE: I take it from Mr. Doherty's remarks that he contemplates a minimum rate in stability.

Mr. DOHERTY: It might operate that way, but not necessarily.

Hon. Mr. McRAE: Reverting to the sugar cargo, it seems to me that a boat operating from Halifax or Saint John in looking for a return cargo at Fort William would not have many facilities to get its cargo on against the well organized units on the lake to which you have referred, unless it made some concession. Otherwise with regular service there you would naturally control the business.

Mr. DOHERTY: They have a very regular and very definite service from the head of the lakes to the Maritime Provinces. That is their business and they have operated it, I think, since its inception without competition. It is their own trade, and I do not know of anybody who is anxious to intervene in that trade against them.

Hon. Mr. CALDER: Won't that be on account of the conditions under which they operate?

Mr. DOHERTY: There are many conditions under which they operate, sir.

Hon. Mr. CALDER: The ordinary boat plying only on the lakes, and not going down as far as Halifax, we will say for argument's sake, charges three cents a bushel on wheat. The owners say, "We must get a cargo back. We will make our rate two and a half cents a bushel." That must be their practice, and consequently they can always get grain or flour or something else at a little lower rate than the others charge. You take that privilege from them, and the chances are they will stop their operations.

Hon. Mr. HAIG: That is the whole point.

Hon. Mr. CALDER: You see, Mr. Doherty, you say that is your hope, that they will stabilize. Now, I am a coal carrier and put in a figure, say, of 75 cents a ton. I can only give imaginary figures. My rate for carrying coal from Buffalo to Fort William is 75 cents a ton. You also are a coal carrier and you say, "That is too high. I will carry coal at 60 cents a ton." Another carrier says, "It is too low. It should be 80 cents a ton." All this has to go to the Board, and the Board must decide what is a fair and reasonable rate on coal that will be stabilized. After it is stabilized everybody has to carry coal at that rate.

Mr. DOHERTY: That would seem to be very reasonable, I think.

Hon. Mr. CALDER: Then I think Mr. Ogilvie's argument is perfectly sound; that is to say, you are going to take from him—I do not say it should not be done—under your process of stabilization his chance of getting his cargo back by giving a little lower rate than that stabilized rate.

Mr. DOHERTY: If you look at it from that standpoint, sir, you are bringing about a very destructive condition in your transportation trade. I think it has been shown to this Committee that it is highly essential there should be well-organized vessel operations in our inland waters. Now, if a broker such as Mr. Ogilvie can find a loose ship somewhere and bring it into the Great Lakes, and have the ability to charge something under the regular rate for his one ship, and by so doing disrupt a rate structure for all the other vessels, does it seem reasonable or fair? Are we going to hold there shall be some situation here which will permit the continued operation of our lake fleets? And can they continue to operate if, even amongst themselves, as Senator Calder has said, the rate is 60 cents to-day and to-morrow it is 50 cents, and the man who quoted 60 cents, and still wants the business, feels he has to take 40 cents in order to have it, and so it goes on indefinitely until we find the traffic is being carried at a revenue which brings less than the cost of operation? I think those are the problems you have to look at. It is not the individual boat or individual fleet that is primarily concerned.

Hon. Mr. BLACK: It is not the individual boat at all.

Mr. DOHERTY: We were talking of Captain Ogilvie. He spoke of a boat.

Hon. Mr. BLACK: Only in part.

Hon. Mr. MURDOCK: Speaking about a ship-load of sugar from Halifax to Fort William, Mr. Ogilvie has expressed apprehension that if this Bill went through that boat would not be able to take on a partial ship-load of flour at Fort William, nor be able to complete its load at Port Colborne or at Kingston?

Mr. DOHERTY: If it is a Canadian or a British vessel there can be no question as to its ability to do those very things, providing it is brought under the operation of the Bill as proposed.

The CHAIRMAN: Coasting?

Mr. DOHERTY: Exactly.

Hon. Mr. MURDOCK: I understood Mr. Ogilvie to say they had never picked up traffic in that way at two or three points, Fort William, Port Colborne, Kingston, but that this Bill would prevent them from doing so if the opportunity offered.

Mr. DOHERTY: I can tell you that the vessels operated in regular trade by the interprovincial steamship lines load at four or five points on the Great Lakes for the Maritime Provinces.

Hon. Mr. MURDOCK: Can those boats running out of Halifax do that after this Bill is passed?

Mr. DOHERTY: Absolutely. The interprovincial steamship lines will carry on their trade in no different manner than they have done heretofore.

Hon. Mr. BEAUBIEN: They fall under the operation of the law.

Mr. DOHERTY: Yes; that and nothing else.

Hon. Mr. ROBINSON: You are basing your argument on the assumption that the Maritime Provinces' situation is the same as the lake ports'. But the Maritime ports are tremendously handicapped by the distances separating them from the Central Provinces. On account of that disability a special rate has been put in by the railways.

The CHAIRMAN: That is the Maritime Rates Act.

Hon. Mr. ROBINSON: Yes. That is to give the Maritime Provinces something to make up for the long distances separating them from the Central Provinces. Now, boats from Saint John and Halifax, competing with Montreal for sugar, have to get to Montreal before they are on an even keel. They have special arrangements and have worked up a special trade, and the people of the Maritimes are very much alarmed that this Bill—which appears to be for the benefit of lake shipments—is going to crush the little business which goes to the Maritime Provinces. Those ships do not want any privilege from one point to another on the lakes, except to pick up through cargoes. Is there no way in which that can be provided for?

The CHAIRMAN: They pick up cargo on the return trip.

Hon. Mr. ROBINSON: They also want to distribute when they get to the Maritime Provinces. They will have cargo for Halifax, Windsor, Digby, Moncton and Saint John. It is a special business and requires special steamers. I do not know how you are going to give the Maritime Provinces a chance if you are going to handicap them by making them pay the rates you pay on the lakes, and pay for the additional distance.

Mr. DOHERTY: The lines operating from the Maritime Provinces have been so operating for the last three, four or five years, as the case may be, and our lake vessels have been operating concurrently, and apparently they have got off very well, perhaps better than we have. They have been operating from Maritime ports, and we from Montreal. I cannot see that the situation is going to be different as between them and us under this Bill as proposed.

Hon. Mr. ROBINSON: That may be so as far as the steamships are concerned, but how about the shippers, the merchants and the farmers of the Maritimes?

Hon. Mr. HOWE: We have with us Mr. Fraser, a Maritime province man who has worked with the Board of Railway Commissioners for many years.

Right Hon. Mr. MEIGHEN: He used to be from the Maritime Provinces. He has graduated.

Hon. Mr. CALDER: Senator Robinson has just given an illustration. A boat leaves the Maritime Provinces with a full cargo of sugar and goes to the head of the lakes and picks up a full cargo of feed stuffs, and when it gets back to the sea it distributes those feed stuffs at central points. It would simply mean an increase in the price of the feed stuffs.

Mr. DOHERTY: If there is a tremendous increase in freight rates the answer must be yes; if they continue as heretofore, it must be no.

Hon. Mr. CALDER: They could not carry on as heretofore once the rate is stabilized at a certain point. They lose the privilege.

Mr. DOHERTY: There is nothing to suggest that the rate is going to be stabilized on a higher basis.

Hon. Mr. ROBINSON: It might be to the advantage of the Maritime Provinces to put shipping out of business altogether. I am not saying this is what the Bill is going to do, but it is going to put a handicap on the Maritime Provinces. But they are more interested in the railways than in shipping, and it may be better to put the shipping out of business and let the railways carry the goods.

Hon. Mr. BLACK: I think, as Senator Robinson has said, the real objection to this Bill is fear on the part of the Maritimes—fear based upon what has happened in the past. At the time of Confederation the Maritime Provinces were promised access to Central Canada.

The CHAIRMAN: By the Intercolonial Railway.

Hon. Mr. BLACK: More than that. If you read the minutes of the meeting held at Charlottetown you will find that what I say is borne out. Now, what happened? There was an increase of the freight rates. The low rates on the Intercolonial were jacked up to a point where any advantage was completely abolished. Then we had the Duncan Commission, the findings of which were that there had been and was an injustice being done to the Maritime Provinces in the carrying of freight to the Central Provinces and the West, and that they were not being treated in accordance with the guarantee of the Confederation Agreement. The Duncan report was put into effect in part, but not entirely. But as soon as that was put into effect the railways, by subventions and secret agreements, again began to violate the agreement, and we are not getting the benefit of the Duncan report because of agreements such as the Potato Agreement, to mention only one. I could mention others.

What comes now? We see in this just another attack on the advantages we were supposed to get when we came into Confederation. And why were we to get them? Because of the disadvantages which we were under geographically. Now we have our boats carrying sugar in the summer at 18 cents from Halifax and Saint John, and the rail rate is 20 cents.

Hon. Mr. BALLANTYNE: Twenty-two.

Hon. Mr. BLACK: The railway men can correct me if I am wrong. I will say 20 cents until I am told that I am wrong.

The CHAIRMAN: Mr. Ogilvie said 22 cents in the summer and 44 cents in the winter.

Hon. Mr. BLACK: Well, as soon as any condition comes along that puts that 22-cent rate out of existence, what is to prevent the railways from increasing the rate to 44 cents, summer and winter, and shutting out the Maritime Provinces from the markets of Central and Western Canada? Now, if this Bill has any object it is not only the stabilization of rates, but, I think, an increase of rates, and I am opposed to any increase of rates at the expense of the Maritime Provinces. Under this Bill the Board has the power to put all of our low rates out of existence. The water rates in the summer months is one lever that we have to prevent the railways overcoming the effects of the Duncan report by manipulation of rates. We do not want to see anything done by legislation that is going to interfere with that any further. I do not believe it is the intention of the Minister to bring that about, but the power is being put in the hands of the Transport Commission to do just that very thing.

Everybody says the railways need help. So they do. But who is paying the deficits on the railways? Every taxpayer in the country is paying them. But that fact does not justify us in placing a predominant burden upon the taxpayers of the Maritime Provinces.

I reiterate that the whole attitude of the Maritime Provinces is expressed in the telegrams which have been read, and in the remarks of Mr. Burchell when he was here. It is a fear that this puts in the hands of the Commission the right to abolish the benefits of Confederation and of the Duncan Commission.

Hon. Mr. DANDURAND: Mr. Chairman, it is now past six o'clock. I suggest that we sleep over this matter and come back to-morrow morning at half-past eleven. It is hoped that we may be able to dispose of the Bill before one o'clock to-morrow, and report it.

The CLERK of the COMMITTEE: The following copy of a communication to the Honourable the Minister of Transport, has been received:—

OTTAWA, Canada, February 24th, 1937.

Hon. C. D. HOWE,
Minister of Transport,
Ottawa, Ont.

DEAR SIR,—Further to the submissions already made to the Standing Committee on Railways, Telegraphs and Harbours on Bill B, to establish a Board of Transport Commissioners for Canada, I am taking the liberty of placing the views of Wings Limited and United Air Services Limited before you.

Part 3, Section 9

Under this Section the provisions of the Railway Act relating to tolls and tariffs and joint tariffs and other matters are to be applied to transport by air. Lengthy evidence has been given before the Committee in respect to the impracticability of these provisions in so far as they relate to the operation of aircraft, despite the inclusion of the words "mutatis mutandis" in the Bill. It is the unavoidable conclusion that to bring the commercial aircraft operator under the provisions of the Railway Act would have the result of forcing him to a trial of these provisions which are so extensive that there would undoubtedly be attempts to put the same into effect, even though inapplicable, particularly due to the fact that the Board, as constituted, is lacking in any practical knowledge of aircraft operation. As a result, the effect of the application of these provisions would lead only to misunderstanding and confusion. It is believed also that the requirements of the Railway Act as to the filing of returns and statistics would be extremely onerous and would serve only to add to the already increasing amount of detail to which the operator must give his attention.

In addition it should be noted that there are certain types of operation which, according to statements made in Committee, it is not presently intended to bring under the proposed Bill. While it is believed that a control or regulation of the rate structure, even in northern operations, is desirable there will be found to be many problems to be met before a completely satisfactory form of regulation can be found. It is, therefore, suggested that instead of attempting to make aircraft operation meet the provisions of the Railway Act, that provision be made for regulation by Order in Council, which regulations can be formulated and put into effect after full consideration has been given to the conditions which they are supposed to control.

Section 10

By the first subsection of this Section it is provided that the Minister may license aircraft for commercial purposes. It should be pointed out that under the Aeronautics Act and the air regulations in force thereunder, the Minister of Transport now licenses aircraft either as private or commercial, this licence being in effect the acknowledgment of the Minister that the aircraft meets the

required mechanical tests and, being airworthy, is a proper vehicle for either private or commercial use. Now, by the terms of the proposed Bill, the Minister is to again license a commercial aircraft. The first licence, or certificate, issued under the Aeronautics Act is totally of a technical and mechanical nature; where as the licence referred to in Section 10 of this Bill is, it is understood, to be a permit issued to a carrier, giving him the right to operate on certain routes and under certain regulations and restrictions in respect of tolls and tariffs.

It is, therefore, submitted that the carrier, not the aircraft, as provided by the Bill, should be licensed to carry on business as the operator of commercial aircraft, which licence will be in the nature of a "trading" licence and will give the carrier the right to do business over an ascertained route, if the service should be run on schedule, or in a defined zone or area under such conditions as may be properly applicable thereto. Furthermore, inasmuch as the later control of the carrier provided in the Act falls under the jurisdiction of the Board, it would appear reasonable that the Board itself should have control of the issue of the licence, instead of the Minister who, by the time the application for operating licence is made, will have already licensed the aircraft under the Aeronautics Act. It is suggested that there would not be any duplication of personnel, or of departmental detail, if this practice were followed, as the jurisdiction of the Department of Transport under the Aeronautics Act and air regulations and of the proposed Board of Transport Commissioners would be entirely separate and distinct. Under northern conditions, or even in scheduled or regular operations between urban points, it would appear most impractical to license the aircraft as provided by subsection 4 of Section 10, by reason of the nature of aircraft operation and the mobility of the various units in use. No further comment in this respect is necessary in view of the evidence already offered to the Committee.

We do believe that as the industry develops, and even to-day in northern operation where in a great many cases schedules are now being run, there is a need for licensing the operation of aircraft for commercial purposes under a Dominion authority, just as bus and truck service in the various provinces are therein controlled.

At this point it should be emphasized that a provision in the nature of a "grandfather" or saving clause should be added to Part 3 of the Act, thereby the operators presently carrying on business will be entitled to a licence as a matter of course. With large sums of money invested and giving service to areas to-day which are dependent to a great extent upon air transportation, even though in a good many cases in competition, it would not be fair to these operators, who, for the most part, have built up the business without Government assistance either direct or indirect, unless the right to continue in operation under licence is granted. We believe that without restricting competition and without giving unfair advantage to the operator now in the field, some form of licence and of rate control is necessary to assure the carrier of a return on his investment sufficient to maintain his equipment at a proper standard and to a reasonable return on the moneys invested; much of which, it may be said, are public moneys.

Section 11

Following out the suggestion made in respect to the issue of the licence, the first part of this Section would have to be amended to read that no goods or passengers, etc., by means of any aircraft other than aircraft operated by a "licensed carrier."

Subsection 2

In Committee there was some suggestion that the words "other person operating the aircraft" in line 4, might refer to the pilot, but our interpretation is that this refers to a lessee or hirer. If this is not the case, provision should

be made whereby only the person operating the aircraft under lease, and not the owner in such a case would be liable for an offence.

We also submit that the forfeiture submissions of this subsection are unduly onerous, for the operator, as well as being subject to a heavy penalty and to the termination of the licence as afterward provided, which is his only means of income from the aircraft, should be a sufficient penalty. It may be pointed out that there is no provision for forfeiture provided in respect to the operation of ships in the part of the Bill applying thereto.

Subsection 3

The intention of this provision is not clear, unless it is meant to apply only to international operation. In any event, it is submitted that the officer named should not be given the right to detain the aircraft which he believes may have been involved in the commission of an offence against that part of the Act, inasmuch as he could hold up the carrier's operation indefinitely. Furthermore, if the carrier should be found to be not guilty of any breach of the Act, there is no recovery open to him.

Part 6, Section 22

The effect of this Section depends to a great extent upon how far the Government intends to bring the Bill, as proposed, into effect in respect of northern operations. This type of service would come, for the most part, in a class of work known to northern operators as charter service or special contract, where a full load or large tonnage is to be handled. The nature of aircraft operation, the variety in type of aircraft, and the element of time, which in many cases is a very important feature in air transportation, all create a difficulty in respect to the establishment of a special tariff of tolls, and make it extremely doubtful if this provision would have any practical effect.

Section 29

The legal aspects of the effect of clause 29 have been fully discussed in Committee by representatives of the automotive traffic and, inasmuch as the same objections to the Section apply in the case of the aircraft operator, there is no need for repetition. In short, the Section in its result, mandatory and limits the discretion of the Board which, it is submitted, should be unfettered by any such Statutory direction, particularly in the case of aircraft operation where the practical features of the business are unknown to the Board.

Section 30

As mentioned previously, this Section provides that the terms of the licence shall be subject to the order of the Board, despite the fact that it is to be issued by the Minister. If the issue of the licence is to be subject to the Board's determination, it should be issued by the Board and not by the Minister, as provided by Section 10.

Section 32

Following out the submissions made in respect to Section 11, it is suggested that these provisions should be struck out in their entirety, insofar as they are applicable to aircraft.

While the foregoing comment has been directed toward the Bill in the form in which it is now before the Committee, it is done so only in accepting the principle of the Bill insofar as it affects air transport as something which is desirable and not to be construed as an indication of approval or acceptance of the Bill in its present form.

At the present time the Dominion of Canada is a party to an international Aeronautical Convention, to which most of the major nations of the world have subscribed and in accordance with which they have, in their respective jurisdic-

tions, invoked the terms of the Convention to determine the status of and regulate air carriers. In England, for instance, where there has been progressive legislation since 1911, up to date regulation and control have been maintained and to-day the chief governing Statutes are the Carriage by Air Act, 1932, and the Air Navigation Act, 1936. Under the latter Act there is provision for the very type of control and regulation which is proposed under Bill B, but it will be noted on reference thereto that even in that country where regulation has kept up with the development, there is no attempt to control through defined statutory channels, but instead by such regulations as may be provided by Order-in-Council.

It has been stated by N. H. Moller in the most recent English text on the Law of Civil Aviation, in respect to the development of the administration in England, as follows:

"An impossible condition would have been created in national affairs in every advance in the field of aviation or every new line of experimental enquiry had been hampered by legislative proceedings which, being bound to a cumbersome parliamentary procedure, would have been unable to keep pace with the day to day national and international requirements in the rapidly extending field of development in Civil Aviation."

Surely in Canada, where we are faced with a two-fold development, these words are even more applicable.

Since 1922 there has been little change in the Aeronautics Act, which is the governing Statute in Canada, and in the same way air regulations provided thereunder have been entirely outmoded, though an occasional amendment has been made there the need therefor was so pressing that it could not be put off. To-day these regulations are hopelessly behind our changing conditions, and in a large part are inapplicable to Canadian operations. As a result, the operator is forced at times to commit a breach of the law which in practice is admittedly not reasonable, but in such contravention he risks invalidating insurance protection and becomes liable to the imposition of a penalty. For many years commercial operators have been pressing for a revision of these obsolete regulations and now that the Department of Transport (which, it is believed, has begun to appreciate the position of the carrier) is proposing further control and regulation, it is submitted that, rather than institute piece-meal legislation such as the proposed Bill, which can only result in a patch-work of administrative control instead of one all-embracing Act, which should be the objective, the proposed provisions in respect of air transport should be entirely omitted from the Bill B now before the Committee of the Senate.

There is a need in this country for a determination of the status of the carrier, for standardization of forms of passenger ticket, way bill, etc., for determination of the carriers' liability and fixing of a maximum therefor, as well as many other features which have been set forth in the legislation and regulations thereunder of nearly all other countries of the world. Therefore, in view of the generally retarded state of administrative legislation in Canada and the fact that the Government is at this time in a position to legislate in respect of air transport as a whole—inclusive of the objects of this Act, without breaking down any established law or regulations, we respectfully submit that the provisions of Bill B in respect of air transport be withdrawn therefrom. Hereafter, that the Government initiate an enquiry, or appoint a Commission to thoroughly investigate the requirements of Canadian aviation, or even call a conference of commercial operators to discuss the needs of the industry and obtain the viewpoint and proposals of the operators and then, having considered fully the practical operating problems which, as has been indicated by the evidence presented to the Committee, can not be satisfactorily administered by the proposed Bill, do revise and amend the Aeronautics Act and air regulations thereunder, or bring down new legislation to cover all phases of air transportation.

Many suggestions in respect to the provisions of such an enactment could now be made but such would only result in detailed representations which would hardly be acceptable at this time.

In short then, it is advocated by the undersigned that to bring air transportation under the Railway Act, as in this Bill provided is impractical and lacking in a progressive and constructive policy, and that the Government should immediately formulate legislation dealing with the many phases of air transport as it is known in Canada, thereby building a firm basis for future regulation and control rather than to attempt to regulate an industry by legislation developed to meet the requirements of an entirely different form of transportation.

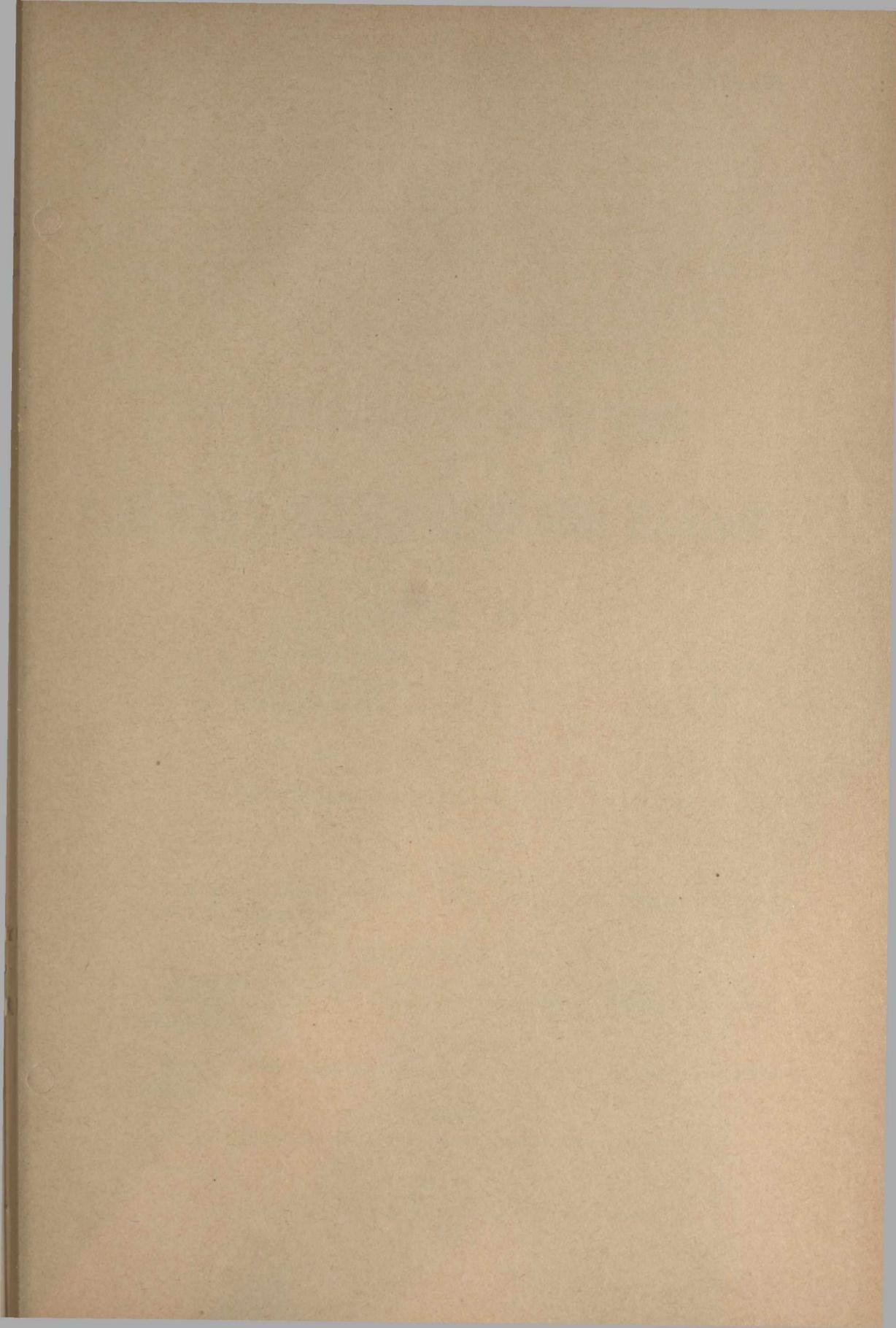
Respectfully submitted for,

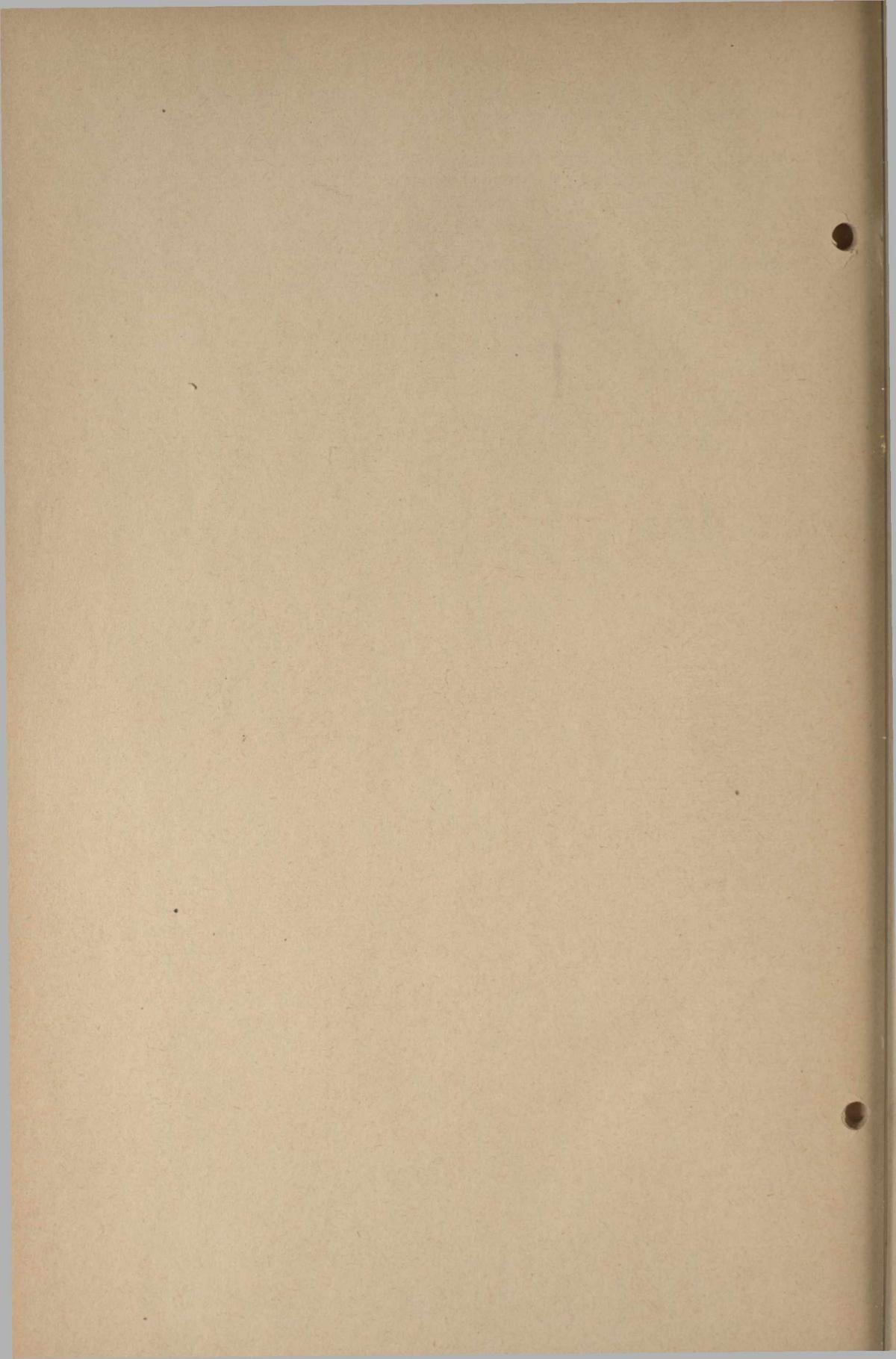
WINGS LIMITED,

and

UNITED AIR SERVICES LIMITED,

per (Signed) D. S. ORMOND.





THE SENATE OF CANADA



PROCEEDINGS

OF THE

STANDING COMMITTEE

ON

RAILWAYS, TELEGRAPHS AND HARBOURS

ON

BILL B

An Act to establish a Board of Transport Commissioners for Canada, with authority in respect of transport by railways, ships, aircraft and motor vehicles

No. 10

The Right Honourable GEORGE P. GRAHAM, P.C.,
Chairman

WITNESS:

The Hon. Hugh Guthrie, P.C., Chief Commissioner, Board of Railway Commissioners.

COMMUNICATIONS:

Telegram from the President, Charlottetown Board of Trade.
Telegram from the President, Associated Boards of Trade of Cape Breton.

MOTION

By the Hon. Senator Black, re exemption of certain maritime shipping.

REPORT

of the committee with the amendments made to the Bill.

THE STANDING COMMITTEE ON RAILWAYS, TELEGRAPHS AND
HARBOURS

The Rt. Hon. GEO. P. GRAHAM, P.C., Chairman

The Honourable Senators

Arthurs	L'Espérance
Ballantyne	Logan
Barnard	MacArthur
Beaubien	Marcotte
Black	McDonald (<i>Shediac</i>)
Bourque	McGuire
Buchanan	McLennan
Calder	McRae
Casgrain	Meighen
Copp	Michener
Dandurand	Molloy
Dennis	Moraud
Farris	Murdock
Gillis	O'Connor
Gordon	Parent
Graham	Pope
Green	Rainville
Griesbach	Raymond
Haig	Robinson
Hardy	Sharpe
Harmer	Spence
Horner	Sutherland
Jones	Tobin
Lacasse	Turgeon
Laird	Webster—50.

(Quorum 9)

MINUTES OF EVIDENCE

THE SENATE,

THURSDAY, March 11, 1937.

The Standing Committee on Railways, Telegraphs and Harbours, to whom was referred Bill B, intituled: "An Act to establish a Board of Transport Commissioners for Canada, with authority in respect of transport by railways, ships, aircraft and motor vehicles," met this day at 11.30 a.m.

Right Hon. George P. Graham, Chairman.

The CHAIRMAN: Gentlemen, if I remember correctly, we had in hand some objections taken to the application of this Bill with respect to certain transportation facilities in the Maritime Provinces and from there up the St. Lawrence. I suppose we are all through that discussion, are we?

Hon. Mr. DANDURAND: I should like at this point to have the Hon. Mr. Guthrie heard on the application of this Bill, if it goes through in the form in which it is at present, and as to the regulations that will govern the whole matter. I may say that the minister will not be here, but that he strongly urges that the Bill remain as it is so far as the point raised by our Maritime friends is concerned.

Would you let us hear from you on this, Mr. Guthrie?

Hon. Mr. GUTHRIE: I do not know exactly the point from which the difference of opinion has arisen.

The CHAIRMAN: There are several outstanding views.

Hon. Mr. ROBINSON: This telegram will show the whole thing.

Hon. Mr. DANDURAND: I will read it. This telegram covers the point, which has been very well put by Senator Black. It says:—

The Transportation Commission of the Maritime Board of Trade representing as it does the Governments of the three Maritime Provinces desires to protest most vigorously against the inclusion in Bill B of water transportation between the Maritime Provinces and ports of the St. Lawrence and Great Lakes. It would appear from the minutes of the proceedings before the Senate Committee that practically all the shipping on the Great Lakes had become bankrupt and that 75 per cent of the shipowners are asking the Government to relieve the situation there by controlling freight rates. We have no objection to controlled freight rates between ports on the Great Lakes or the St. Lawrence river if this is necessary in order to clear up the unfortunate situation which has developed in that area. We do not, however, see why the Maritime Provinces should be dragged into this situation as all shippers and all owners of steamers in the Maritime Provinces are strongly opposed to this being done.

They do not object to control, provided they are not controlled.

It is putting us back to the position where we were when the Duncan Commission submitted its report in 1926. If the committee will examine the Duncan report they will see that one of the reasons why the Maritime Provinces were induced to go into Confederation was because we would be given access to the markets of Central Canada and at reduced freight rates so as to overcome the effect of our isolation from these markets. The

Maritime Freight Rates Act has been of tremendous help to us in this regard and has given us a new lease of economic life. Of equal importance, however, to our economic life is the maintenance of low water transportation charges. The inclusion of the trade between the Maritime Provinces and Great Lakes and St. Lawrence ports in Bill B must inevitably lead to higher freight rates.

This is the fear they express.

Indeed this can be the only purpose of the Bill. It is not a fair argument to say, as was said before the Committee by the Minister of Transport, that it is necessary to regulate this trade because similar industries on the Great Lakes will have their rates regulated. This argument overlooks the whole history of Confederation and the fact that we have to pay freight on the transportation of goods a thousand miles to Montreal in order to compete with the industries in Central Canada. It is believed by all who have studied the problem here that the inclusion in this Bill of regulation of water transportation between the Maritimes and the Central Provinces will greatly retard the economic life of the Maritime Provinces within Confederation.

F. MACLURE SCLANDERS,

Hon. Secretary.

RAND H. MATHESON,

Manager,

Transportation Commission of the Maritime Board of Trade.

Hon. Mr. GUTHRIE: Well, Mr. Chairman, there is no doubt that the Maritime Freight Rates Act has been of very substantial advantage to the Maritime Provinces. That Act applies only to railway rates and not to water rates. The enactment of that law followed the Duncan report, which is referred to. I was a member of the House of Commons at the time the Maritime Freight Rates Act was passed, and I thought it was a fair settlement of the difficulties under which the Maritimes laboured in regard to shipment.

The present proposal, to which objection is taken in this telegram, is the application of a controlled rate to apply all over Canada. I do not see how, consistently, you can exclude one portion of Canada and include other portions if you are going to control rates. Otherwise discrimination and injustice will arise at once.

I thought that the explanation made by the Minister pretty clearly demonstrated to the Committee that his object was, not to favour any particular transportation system, either rail or water, but to establish an equilibrium as between them in regard to all shipments to the interior of Canada. When you speak of the control of rates you are really speaking of a power given to the Board to see that unreasonable rates are not charged and that discriminatory rates are not permitted. I do not think you can go at the matter piecemeal and have one part of the Dominion of Canada controlled in regard to rates and the other part uncontrolled. It has not been suggested in the telegram, but perhaps it is within the vision of some of those who are protesting, that there should be discrimination in regard to water shipments, as there was in regard to freight shipments, because of the specially designated territory of the Maritime freights reduction. It has not been suggested that there should be any reduction in regard to water rates, but that is the only way I can see in which the matter could be overcome, if there is anything in the contention of the Maritimes that they are suffering from geographical disadvantages or the like. But my view is that if you are going to control rates you must make the control applicable

throughout; otherwise it will be piecemeal, and discrimination is bound to crop up.

Hon. Mr. HARDY: These rates, when set, are going to be to some extent within the discretion of the Board, are they not?

Hon. Mr. GUTHRIE: As to their reasonableness, yes.

Hon. Mr. HARDY: There is always a certain reasonable discretion allowed the Board.

Hon. Mr. GUTHRIE: Yes.

Hon. Mr. HARDY: And they can see what is right in that regard, and also as to calling at or touching certain points to load or unload. Your licences can cover that at your discretion.

Hon. Mr. GUTHRIE: I think the Board's power will be full enough for that.

Hon. Mr. CASGRAIN: Mr. Guthrie, do you think it would not be possible to have a distinction between salt water and fresh water, because salt water navigation is entirely different from fresh water navigation. On the Great Lakes the companies suffer considerably because ships, even from Sweden, come in and carry freight at very low rates, putting—as someone has said—nearly all the companies into bankruptcy. Would it be possible—I ask you as a lawyer—to put in the law something to say that this will apply only to fresh water?

Hon. Mr. DANDURAND: With all due respect to my honourable friend I should like to have the Maritime representatives put questions which will cover their fears to Hon. Mr. Guthrie.

Hon. Mr. ROBINSON: I do not know whether we have got the idea or not, but we are already discriminating to a certain extent in the Bill. An amendment to the Bill, as I remember it, eliminates everything east of Father Point.

Hon. Mr. BLACK: That is correct.

Hon. Mr. ROBINSON: Including the Maritime Provinces—New Brunswick, Nova Scotia and Prince Edward Island.

Hon. Mr. BLACK: And the Pacific coast.

Hon. Mr. HAIG: And Churchill.

Hon. Mr. ROBINSON: The coasting trade in this part of Canada is exempt, and I think there is good reason for it.

I do not know how we can get around this situation in the Maritime Provinces, but it has occurred to me that there might be an amendment to the Bill stating that it should not apply to through freight—I say nothing about passengers—to or from the Maritime Provinces and the lakes or any part of Canada. It is not asked that these boats should have the right to trade from one part of the Great Lakes or of the St. Lawrence to another.

The CHAIRMAN: They do not want coasting privileges.

Hon. Mr. ROBINSON: No.

Hon. Mr. DANDURAND: Oh, yes, they want to be able to stop to pick up cargo.

Hon. Mr. ROBINSON: They do not want to carry on coasting trade in the Lakes, but they want to be able to pick up cargo, which must be through freight going to the Maritimes or through freight coming from the Maritimes. It has occurred to me that if we had an amendment to permit that, it would not seriously affect the Bill and I am sure it would meet the demands of our people down there. The matter is perhaps taken more seriously down there than the Committee realizes, and if we do not settle it in the Senate Committee a fight will come on in the House of Commons. I should like to see the thing settled. I do not think an amendment of the kind I have suggested would seriously

interfere with the operation of this Bill, which I suppose we all admit is a splendid attempt to regulate shipping. We do not want to destroy the Bill, but if we can protect the interests of the Maritimes we want to do so, that is all.

Hon. Mr. MACARTHUR: Prince Edward Island is of course not so much affected as Nova Scotia, but it is more or less affected. I should like Mr. Guthrie to say whether in the event of this Part of the Bill going through the Maritime interests would suffer. I understood from Captain Ogilvie yesterday that he was very apprehensive; he seemed to think that no doubt it would be a great disadvantage to the Maritimes. The Minister, Mr. Howe, gave us to understand that would not necessarily be so. We know there is more need of control in the Great Lakes than in the Maritimes, and the Maritimes want to be left in the position they now are. In your opinion, Mr. Guthrie, if there is no amendment made to this part of the Bill, will the Maritime shipping interests be affected detrimentally?

Hon. Mr. GUTHRIE: Well, I do not know that my opinion on water shipments is very well founded. I should be inclined to adopt the view of Mr. Howe in that respect; he is thoroughly familiar with all shipping interests. I do not think there would be any prejudice to the Maritime shipping interests.

Hon. Mr. MACARTHUR: They may be unduly apprehensive?

Hon. Mr. GUTHRIE: I think the Maritime people are unduly apprehensive.

Hon. Mr. BEAUBIEN: I am not sure as to the extent to which this Board will be able to enforce regulation. We have heard different views, but I think we could not get anyone better able than Mr. Guthrie to advise us upon this point. I want to ask Mr. Guthrie this question. Will the only result of this Bill be registration of tolls, or does the Bill go a step farther and put into the hands of the Board the right to enforce tolls or rates? The Minister has been very clear and precise: he says that there is no other purpose than the registration of the rates.

Hon. Mr. DANDURAND: I do not understand the expression my honourable friend is using. What does he mean by registration?

Hon. Mr. BEAUBIEN: Registration of rates.

Hon. Mr. DANDURAND: The rates will be filed.

Hon. Mr. BEAUBIEN: Then I will say filing, if that is the better term. I understood, though, that the filing would result in a measure of control, because of the fact that if any of these agencies reduce their rates they cannot raise them until thirty days afterwards, but a reduction in rates can be made after three days. Now, agencies would probably be very careful before reducing rates, because they would realize that a reduction would have to stay in effect at least thirty days. That consideration might result in maintenance of rates at a reasonable height. However, I rose principally to ask a question of Mr. Guthrie, in order that I might be perfectly clear as to what this Bill would do. My question is: After having considered the Bill, Mr. Guthrie, do you say it would give the Transport Board the right to enforce rates?

Hon. Mr. BALLANTYNE: Before Mr. Guthrie answers, let us put the situation in a straightforward business way. If the Bill is passed the Transport Board will be functioning and rates will be filed. Well, as Mr. Doherty told us yesterday, if one steamship company had a rate which was lower than the others had, the Transport Board would consider that a discriminatory rate and would notify the company that the rate must be brought up. The Transport Board will not be appointed merely to see that rates are filed; that will not be the end of its jurisdiction. If the Board finds irregular or discriminatory rates, it will be its function—and that is the object of this Bill—to stabilize the rates. Stabilization of rates will mean raising of rates, in many circumstances.

Hon. Mr. CALDER: May I repeat for Mr. Guthrie an illustration which I gave yesterday? Suppose I have a steamship carrying coal, and I file a rate

of 60 cents. Another boat owner files a rate of 70 cents, and another one, 50 cents. The view I took, and it was concurred in, was that if an appeal was made against any of these rates the Board would have to deal with it and, eventually, to fix the rate.

Hon. Mr. BALLANTYNE: Hear, hear.

Hon. Mr. CALDER: The Board would have power to deal with filed rates if a situation like that arose.

Hon. Mr. GUTHRIE: Filed rates are the maximum rates. The Railway Act has been in operation for thirty-three years and so far there has been no difficulty with regard to rates. It was fought very seriously by railway companies when it was enacted, but complaints now are so few as to be negligible. I do not see why any difficulty should arise in regard to shipping rates, because the principles in regard to railway rates are adopted so far as shipping companies go.

Hon. Mr. BEAUBIEN: Mr. Chairman, though my honourable friend Senator Ballantyne stated his view as a business man, which of course is very much better than the view of a common everyday lawyer, I want to get an answer to the question I asked Mr. Guthrie. Mr. Guthrie has the Bill in his hand, and I want to know from him whether that Bill would give the Board the right to fix rates. That is a clear question.

Hon. Mr. CASGRAIN: Of course it does.

Hon. Mr. BEAUBIEN: Wait a minute. You are not in the box.

Hon. Mr. GUTHRIE: The question is whether the Board would control rates.

Hon. Mr. GORDON: Whether the Board would fix them.

Hon. Mr. GUTHRIE: No. The companies fix rates and file them. The rates they fix are maximum rates, and they can go below them with special or competitive rates. So long as the maximum rates are not unreasonable, the Board would take no action in regard to them. But if the filed rates discriminated in any way against any particular shipper or any particular part of the country, then the Board could intervene and readjust them or fix them.

The CHAIRMAN: After a hearing.

Hon. Mr. GUTHRIE: In the case cited by Senator Calder, where the rates were 50, 60 and 70 cents, if complaint came before the Board and there was found to be discrimination, the Board could at once remove it and fix the rate.

Hon. Mr. BLACK: Mr. Chairman, I think the statement made by Mr. Guthrie, that if this Bill goes into effect it will control all shipping equally, is not a correct statement. It is made, perhaps, without knowledge of all the facts. Let us look at the map. Take a British ship that comes over here with a cargo. She goes up the St. Lawrence river, up into the Great Lakes, and drops her cargo where she likes. Then she stops at Port Colborne, say, and picks up part of a cargo, goes to another port on the Canadian side and picks up the second part of her cargo, and then goes to Montreal and picks up the third part of her cargo. From there she goes out into the Atlantic to her destination, wherever it may be. There would be no control over that ship, so far as this Bill is concerned. Now, every vessel from the Maritime Provinces has to go to sea before it can get into the St. Lawrence or the Great Lakes. It has to go out into the Atlantic, the same as a ship from any other part of the Empire, from Australia or elsewhere, before it can get into the St. Lawrence. These Maritime ships are deep sea sailing ships, in the same trade and under the same flag as ships that come from Liverpool or any other part of the Empire. Yet, under the Bill, before our own ships could do what ships from other parts of the Empire can do, they would have to be licensed, in the first place, and, in the second place, regulated. I do not want to labour the point; I think it is

clear that the Bill puts Canadian ships in a separate class from other ships which are under British register but are not owned in Canada. In other words, the Bill discriminates against the Maritimes ship.

Hon. Mr. GUTHRIE: Is that not only in import and export trade?

Hon. Mr. BLACK: I suggested an amendment yesterday. You have said that under the Bill there might not be discrimination, but I pointed out yesterday that there could be very great discrimination. You have made it clear to us all that the Board would be the determining body in fixing rates. I am not a shipper, but if I were I could not fix rates at all; I could propose, but the greater power, the Board, would dispose. If I were in a shipping company, my rate in a given instance might be too low, in the opinion of the Board.

I referred yesterday to the rate on sugar, which serves as a very good illustration. Our ships carry sugar at 18 cents to Great Lake points or Montreal, and I am told the charge by railway is 22 cents. But the very minute that the water rate is discontinued, the rail rate goes up to 44 cents.

Hon. Mr. DANDURAND: During the winter.

Hon. Mr. BLACK: Yes. We cannot get up the St. Lawrence then; it is frozen over. Why does the rail rate jump? Just because competition is taken away. Any person is mistaken who believes that if this Bill goes into effect there will not be a decision of the Board after complaint by some railway company, that a certain class of carriers by water are carrying sugar at too low a rate. The water rate will then have to be put up to meet the rail rate, and the rail rate will go up. I am just giving a practical demonstration of what every man who has dealt with these matters knows happens. I do not care what railway men may say. They may tell us that it may not happen. We know it has happened and will happen again.

Hon. Mr. GUTHRIE: But the water rate is never put up to the railway rate.

Hon. Mr. BLACK: Not at all; but the railway rate comes down to 22 cents in summer. The railways will come to your Commission and will represent under this Act that here is unfair competition.

Hon. Mr. SINCLAIR: Not under this Act.

Hon. Mr. DANDURAND: Will you allow Mr. Guthrie to answer the question?

Hon. Mr. GUTHRIE: An appeal from the railways, if it were permitted, that carriage rates on sugar were too low could be determined by the Board. But it is a question whether another transportation company can make such an appeal. Let me tell you this, that water rates are never raised to the level of railway rates, because it is realized that water shipment is a cheaper process than rail shipment, and so long as there is competition in the summer months the railway companies come down, not to the level of the water shipment but to a reasonable amount to give them some chance of getting a portion of that trade. When the competition is out of the way the ordinary fair and reasonable rates prevail. That is not a new principle. It has been in operation in this country for thirty-five years and—

The CHAIRMAN: Longer than that.

Hon. Mr. GUTHRIE: —and in the United States much longer, and in Europe too.

The CHAIRMAN: We have always had winter rates on the railways since I was a boy.

Hon. Mr. BLACK: I am simply pointing out some of the many dangers that might accrue to Maritime shipping. Let me follow my argument a little further. We maintain our ships should have the very same right as the ship coming from England or Australia going up the Gulf of St. Lawrence into the Great Lakes and bringing cargo down.

Yesterday Captain Ogilvie gave a very good description of some of the dangers. He wanted the ships to do coasting trade as well. I think they should have that right.

A VOICE: No, no.

Hon. Mr. BLACK: We are not advocating that at all.

The CHAIRMAN: I understood, senator, all he requires is not really coasting. It is the right to call at places along the Great Lakes on the way back, not to do any trade between those ports, but to pick up cargo that might be taken to the Maritime Provinces.

Hon. Mr. BLACK: The larger vessels—take the Canada Steamship Lines—are doing lake business. It was not intended, I think, by that company to do transatlantic business, but they have that territory to themselves as it is. The Maritime ship has to go several thousand miles before it gets there, so it is in a different class altogether, and should not be considered in a competitive class with the Great Lakes ships. I think you are attempting to make a comparison which is not there at all, Mr. Chairman. They are so entirely different that they should not be compared one against the other. I am inclined to believe that the Minister himself, not being a shipping man, particularly a deep-sea shipping man, has not sensed the very great differences there are between the two classes.

I want to make this suggestion:—

That the Bill be amended as follows: That ships carrying cargo from Maritime Province points in Canada and outside to the St. Lawrence river and Great Lakes, but not doing a coasting trade in the Great Lakes and St. Lawrence, be exempt from the provisions of this act.

I make that as a motion, Mr. Chairman.

Hon. Mr. BEAUBIEN: What section will your amendment apply to?

Hon. Mr. BLACK: I will leave that to the Law Clerk to adjust.

Hon. Mr. DANDURAND: I have consulted the Minister as to some such amendment. He thinks there can be no distinction in the area where ships are to be regulated, and that when ships coming from a part of Canada called the Maritimes enter the area which is controlled, they should be subject to the same law and the same jurisdiction, that of the Transport Board. As has been stated both this week and last, similar fears were expressed by the railways and the users of railways when the Railway Board was instituted. I suggest that the Bill remain as it is and that this amendment be not entertained. If the Bill passes in a certain form the shipping referred to will come under the jurisdiction of the Board, and we shall very soon see if the regulation works harmoniously. I am convinced that it will, and, in the name of the Minister and the Government, I am not disposed to accept the amendment.

Some Hon. SENATORS: Question.

The CHAIRMAN: Is there a seconder for the amendment?

Hon. Mr. MACARTHUR: I will second the amendment, Mr. Chairman. I agree with Senator Black, I think it would be better if the Bill were so amended as to remove all apprehension. Undoubtedly, as Mr. Guthrie has said, the water rates will always be somewhat lower—20 per cent on an average—than the rail rates in the open season. But no matter whether this Bill goes through in its present form or amended, it will make no difference: the boats will get the summer traffic and the railways the winter traffic. There will be all sorts of secret rebates. This amendment would remove all occasion for secret rebates, but even were there any, and they were disclosed, I do not think the Department would press for the penalty to be imposed.

Right Hon. Mr. MEIGHEN: If I get the purport of the amendment it is this: that water traffic between Maritime ports and Great Lakes ports strictly be not within the compass of the Bill.

The LAW CLERK: I think this expresses the principle:—

Ships carrying cargo from Maritime ports in Canada and outside to the St. Lawrence river and Great Lakes, but loading in the Great Lakes for St. Lawrence ports only return cargoes destined for Maritime ports, be exempt from the provisions of this Act.

Hon. Mr. BLACK: Maritime ports or outside.

Hon. Mr. ROBINSON: I would suggest that as the word "Maritime" has acquired with us a certain meaning, it might be well for the Law Clerk to make certain that it would be appropriate to express Senator Black's purpose.

The LAW CLERK: I was only trying to express the principle; the phrasing would follow.

Hon. Mr. SINCLAIR: Mr. Chairman, the motion seems to hinge on the Maritime question. While not a member of the Committee, I know a little about the Maritimes. If this exemption is put into force, what is the position between Canada Steamship Lines on the Great Lakes and the Interprovincial Steamship Company referred to yesterday, both doing the same trade as between a lake port and a port in the Maritimes; will one be controlled and the other not?

The CHAIRMAN: That is the way Mr. Doherty said it would be.

Hon. Mr. SINCLAIR: I have listened to the discussion, but I can see no real reason for this amendment. I have received a telegram from the Charlotte-town Board of Trade, but there is no argument in it; it is based on fear, born of want of knowledge of what is in the Bill and its application. I should like one of the lawyers to answer the question I have put in regard to the application of the rate.

The CHAIRMAN: I understood it was admitted, senator, that there was no question the traffic in which these two companies engaged would be in this position, one would be controlled in rates and regulations, the other would not be.

Hon. Mr. SINCLAIR: I do not think that would be fair.

Hon. Mr. DANDURAND: That is the view the Minister takes.

Some Hon. SENATORS: Question.

Hon. Mr. BLACK: Would the Minister prefer to have all shipping exempted from the Bill?

Hon. Mr. DANDURAND: Yes! And some of my friends in the West have suggested that wheat should be exempted.

Some Hon. SENATORS: Hear, hear.

Hon. Mr. DANDURAND: I would suggest a fish board for the Maritime Provinces, so fish could be controlled, the Government to buy the fish and bear any loss, and hand over any profit to the fishermen of the Maritimes.

Hon. Mr. BLACK: Hear, hear.

Hon. Mr. DANDURAND: This will be a fine country if we are to have a piecemeal policy with the principle of the Government supporting the load.

Hon. Mr. BEAUBIEN: Mr. Chairman, I for one hold that regulation is a bad thing and should only be resorted to when it is absolutely necessary. A strong case has been out for the need of regulation somewhere within the territory to which this Bill is to apply because of a state of chaos prevailing there. Is it true that this chaotic state prevails only on the Great Lakes? If it does not prevail anywhere else, why try to treat the rest of the country which is perfectly healthy? If this chaotic state prevails only on the Great Lakes, I do not see any objection to limiting the operation of this Bill. If there is discrimination and chaos only on the Great Lakes, I think my honourable friends from the Maritime Provinces have made out a strong case.

Hon. Mr. DANDURAND: But they come into the Great Lakes.

Hon. Mr. BEAUBIEN: But they do not cut into the trade proper that creates the trouble. There are several experts here who can explain the situation in two words. If regulation is not absolutely necessary why have regulation? But if regulation is necessary, why not limit it strictly to that portion of the country which requires it?

Hon. Mr. CALDER: If the Bill remains as it is will there not be a demand for the adjustment of water rates?

Some Hon. SENATORS: Question.

Hon. Mr. HAIG: Question.

The CHAIRMAN: Are you ready for the question?

Hon. Mr. RAINVILLE: I want to know from Mr. Black if a boat coming from the Maritime Provinces and calling for or delivering a load on the lakes in Ontario would be entitled to take a load back to the Maritime Provinces.

Hon. Mr. BLACK: Yes.

Right Hon. Mr. MEIGHEN: If I understand the amendment aright, it would apply just as much to the Canada Steamships as to the Maritime vessels. As long as the traffic is between Great Lake ports and Maritime Province ports it does not come under the Bill. Am I right in that?

Hon. Mr. BLACK: I think so.

Right Hon. Mr. MEIGHEN: Then there is no discrimination as between boats, and the only question remaining would be the one Senator Robinson raised yesterday as to whether or not the ultimate result will not be to add to the cost of the trade to the people of the Maritimes.

Hon. Mr. BLACK: I do not see where it would add to it, because the main bulk of that trade consists of bringing mixed cargoes or straight cargoes from the Maritime Provinces up, and taking cargoes down. As long as they are not regulated and told they must put their rates up, the feed stuffs will come to the farmer at just the same rate as now.

Hon. Mr. McRAE: Mr. Chairman, there is one section of the Pacific coast that I think is within the scope of this amendment. We ship straight cargoes of lumber from the Pacific coast to the Great Lakes.

Hon. Mr. CASGRAIN: In the same boats?

Hon. Mr. McRAE: They can come in the same boats. We might ship to Toronto or further up, and I want to make sure that this trade is within the scope of this amendment. If it is, I am for the amendment.

Hon. Mr. BLACK: It is.

Hon. Mr. DANDURAND: Can Mr. Fraser answer that question?

Right Hon. Mr. MEIGHEN: Does the Black amendment apply?

Mr. FRASER: I think he limited it in terms to Maritime Province ports.

Hon. Mr. BLACK: And outside.

Hon. Mr. BEAUBIEN: What do you mean by "outside"?

Hon. Mr. BLACK: Great Britain. I intended that motion to cover the maritime ports, and "Maritime ports of Canada" means those on the Pacific coast just as much as any others.

Mr. FRASER: You will remember the law officers were changing the definition of maritime ports to mean ports on the east, on the Atlantic.

Hon. Mr. CASGRAIN: There is only 12-foot draft in the canals, and there are very few ocean vessels with that draft.

Hon. Mr. BLACK: To make it clear, I would ask the Law Clerk to arrange that to cover what I wanted, and as I said yesterday, "maritime ports" are to

include ports on the Pacific coast. I want it to be understood that the amendment will cover the Pacific and the Atlantic coast ports.

The LAW CLERK: It will be that way.

The CHAIRMAN: Senator Robinson raised the point that the word "maritime" had acquired a particular significance.

Hon. Mr. ROBINSON: I think the Law Clerk can fix that.

I am not arguing on behalf of the ship owners of the Great Lakes, the Maritime Provinces, Great Britain, or any place else; the only argument I make is on behalf of the traders, farmers and shippers of the Maritimes.

The LAW CLERK: As I understand it, you mean through cargoes from any part of Canada to any part of Canada. I think that expresses it—through cargoes from any maritime port to any port on the Great Lakes or the St. Lawrence; and that relates to both the Pacific and the Atlantic coasts. It is "maritime ports" as distinguished from "Maritime Province ports."

The CHAIRMAN: Are you confusing anything or leaving anything out?

The LAW CLERK: Not of the principle.

Hon. Mr. DANDURAND: At the request of our Maritime friends we have excluded from the operation of this Bill the ocean coasting trade as far as Father Point. When we did that I thought we had satisfied our Maritime friends on that score, but that when boats entered the St. Lawrence and went up from Father Point to the lakes they stood on an even keel—to use an appropriate expression—with the other shipping interests. I still believe that we should maintain some regulation and control from Father Point up to the Great Lakes, trusting to the flexibility of the regulations that can be applied and the rulings that will be given by the Transport Board. For this reason I suggest that this amendment be not accepted.

Some Hon. SENATORS: Question.

The CHAIRMAN: I do not know yet what the amendment is that Mr. O'Connor has fixed up. I think that an important amendment like this, which may be debated on what it actually says, should be right.

In the minds of many of us there are two St. Lawrences. Some are discussing the St. Lawrence from the ocean to Montreal; others are discussing the St. Lawrence from Montreal to the Great Lakes.

Hon. Mr. BLACK: There is only one St. Lawrence river.

The CHAIRMAN: That may be, but if your Maritime boat can do certain things it may carry traffic to Montreal and never go west at all.

Hon. Mr. ROBINSON: I am not sure that the amendment would be clear enough to prevent these boats from doing trade in the lakes. They do not want that privilege.

The LAW CLERK: It says "loading only."

Some Hon. SENATORS: Question.

Hon. Mr. BLACK: The Law Clerk knows what we want. Will you allow him to take it and write it out?

The CHAIRMAN: We will have it read to see if it suits you.

The CLERK OF THE COMMITTEE (Reading):—

That ships carrying cargo from maritime points in Canada and outside to the St. Lawrence river and Great Lakes, but loading in Great Lakes or St. Lawrence ports only return cargoes destined for maritime ports, be exempt from the provisions of this Act.

An Hon. SENATOR: "Or outside."

Right Hon. Mr. MEIGHEN: If the word "outside" goes in the first part, it should go in the second. If the amendment means that traffic not only from

maritime ports but points outside of Canada is to be included, should not traffic from Great Lakes and St. Lawrence ports to maritime ports and also outside be included?

Hon. Mr. BLACK: The Bill already takes care of that.

Some Hon. SENATORS: Question.

Right Hon. Mr. MEIGHEN: I do not like to see a division on this amendment the way it is. I think probably the Minister would be very well advised to accept it, for broad national reasons. If I thought it took the heart out of the measure right here in Committee, I would not support it; and further, if I thought it involved discrimination as between vessels owned in the Maritimes and vessels owned on the Great Lakes, I could not support it. Now the latter difficulty is removed, and I cannot see any discrimination between the vessel owners. The whole thing is intended to distinguish certain classes of traffic from other traffic, and vessel owners running boats from the lakes to maritime ports are going to be exempt from the Bill. The question then is, can we pass this amendment and preserve what is sought to be gained by the Bill as a whole? The amendment, if it carries, is going to have the result of exempting traffic which unites the central portions of our country with extreme portions of the country. There is no doubt in the world that the tendency of the Bill will be, if you wish to use it, to stabilize; but on the whole and on the average, where a chaotic condition obtains, the tendency will be to increase rates in order that those employed in the business may have more reasonable living conditions. But there is no chaos among those that we are seeking to relieve here.

Hon. Mr. DANDURAND: Are you sure there is not? It affects all the ships that will carry from the Great Lakes to the Maritimes and back.

Right Hon. Mr. MEIGHEN: That is true. There are companies which engage in this traffic as part of their business and, if the effect of control is to lower the average of rates, they would be affected to that extent. But that is not very serious. The great difficulty is in the Great Lakes themselves, and I fancy that coasting conditions in the Great Lakes can be ameliorated by control.

Now, is not the amendment going to be just one further contribution towards national solidarity, in that it will encourage trade from the extremities of Canada to the great Central Provinces? It leaves that traffic free of a certain regulation to which other traffic is going to be subjected, and is it not better in the absence of chaos in this traffic to maintain that condition? Is it not in accord with the last principle put into the Railway Act—the Maritime Freight Rates Act, which, though I think I can claim some credit for the idea, was passed by another Government? If that is all the amendment means it is not going to make much of an exception, and would not the Government be well advised to accept it? It is going to have plenty to do to administer the Act, even with this provision in it. I should not like to be the Minister who is going to be responsible. The West sees in this the possibility of an elevation of rates on the lakes. I am not arguing that point now. It may be that conditions are such as to be incurable in any other way; that this has to be done; but even so will it not be a great step forward if it can be accomplished without further raising the suspicions and animosities of the extremes of our country?

Hon. Mr. DANDURAND: The difficulty is that if we follow Senator Meighen's suggestion there will be a distinction between ships that are controlled and those that are not. I realize that our Maritime friends are fearful of the application of this measure. But I believe that all our shipping should be covered by the same legislation, that there should be the one principle applying to all our ships, and that we should leave with the Board the power to adjust rates in such a way as to maintain the advantages that the Maritimes have with respect to rail traffic. As Mr. Guthrie has said, there is bound to be a lower rate by water than by rail. I dislike the idea of making a difference between our shipping in

general and shipping that goes from one particular part of Canada to another. A certain number of boats from the Maritimes will continue to come up to the Great Lakes and compete with other boats. I do not believe the chaos that exists can be really cured if we make the distinction that has been suggested. The Minister is not here but he knows the views of the Maritimes and yet he thinks there should be no distinction.

Some Hon. SENATORS: Question.

Hon. Mr. DANDURAND: The proof of the pudding is in the eating. If we pass this Bill as it is, it will be for the Board to justify its actions and within a year or two we shall be in a position to judge of the effect upon shipping.

The CHAIRMAN: The question is on the amendment moved by Senator Black, seconded by Senator MacArthur:—

That ships carrying cargo from Maritime points in Canada and outside to the St. Lawrence river and Great lakes, but loading in the Great lakes or St. Lawrence ports only return cargoes destined for Maritime ports and outside, be exempt from the provisions of this Act.

Hon. Mr. CASGRAIN: Carried.

Hon. Mr. DANDURAND: The Committee will decide.

Hon. Mr. CASGRAIN: I have a vote.

Hon. Mr. DANDURAND: The Committee will vote in due time.

The amendment was negatived: contents, 13; non-contents, 14.

The CHAIRMAN: We have now dealt with all the amendments that were presented. Shall the title carry?

The title was agreed to.

It has been the custom, with respect to bills dealt with like this, to ask the Law Clerk to go carefully through the Bill and see that the amendments are in order and in their proper places. Should the Law Clerk find some little readjustment is necessary, we may call the Committee together again.

The following communication have been received:—

SYDNEY, N.S.,

March 11, 1937.

Associated Boards of Trade of Cape Breton again wish to urge its grave concern over application of Bill B to shipping from here to St. Lawrence. Our economic existence dependent on cheap and unrestricted access to St. Lawrence ports strongly urge exemption of this shipping heartily endorse representation of Transportation Commission of Maritime Boards of Trade.

ALEX. C. ROSS,

President.

CHARLOTTETOWN, P.E.I.

March 11, 1937.

Our Board requests that Bill B be either held over another year or else be made non-effective as regards water transportation between Maritime Provinces and other ports of Dominion. Anything else must be considered as direct violation of terms of Confederation and seriously affect our whole economic set-up.

R. R. BELL,

President Charlottetown Board of Trade.

REPORT OF THE COMMITTEE

THURSDAY, 11th March, 1937.

The Standing Committee on Railways, Telegraphs and Harbours to whom was referred the Bill B, intituled: "An Act to establish a Board of Transport Commissioners for Canada, with authority in respect of transport by railways, ships, aircraft and motor vehicles" have in obedience to the order of reference of 3rd February, 1937, examined the said Bill and now beg leave to report the same with the following amendments:—

Page 1, lines 15 to 20, inclusive. Leave out paragraph (d).

Page 1, line 23. Leave out "railway or express"

Page 2, line 17. After the words "of Canada," insert the words "or through Canada between points outside of Canada,"

Page 2, line 21. For "or" substitute "and"

Page 2, line 30. For "the transport of" substitute "carrying"

Page 2, lines 37 and 38. For "not propelled by oars;" substitute "exceeding one hundred and fifty tons gross tonnage;"

Page 3, line 32. For "railway" substitute "company"

Page 4, line 19. After "or" insert "any"

Page 4, line 23. Leave out "and not less than one hundred dollars."

Page 4, line 24. After "may" insert "subject to the provisions of this section,"

Page 4, line 25. For "and" substitute "and/or"

Page 4, line 35. For subclause (5) substitute the following:—

"(5) The Minister shall issue a licence upon a certificate being issued by the Board in respect of a ship built, building or about to be built, that the proposed service is and will be required by the present and future public convenience and necessity and in the absence of such a certificate no licence shall be issued."

Page 5, line 3. After "ship" insert ", other than a British ship, hereafter".

Page 5, lines 5 to 8, inclusive. Leave out all the words of the proviso.

Page 5, line 18. For "transported of" substitute "transported not exceeding".

Page 5, line 19. For "of the registered" substitute "gross".

Page 5, line 21. For "transported of" substitute "transported not exceeding".

Page 5, lines 25 and 26. For "if he believes that an offence has been committed against this Part" substitute "if he believes that any ship to which this Part applies is transporting, or after the coming into force of this Part has transported, passengers and/or goods without a licence, in contravention of this Part, may".

Page 5, line 36. After "consideration" insert "*inter alia*".

Page 6, line 10. For "are repealed." substitute "shall, during such time as, and in any place wherein, this Part is in force be deemed to be repealed."

Page 6, line 10. Insert the following as subclause (5):—

"(5) The provisions of this Part shall not apply in the case of ships engaged in the transport of goods or passengers between ports or places in British Columbia, Hudson Bay, Nova Scotia, New Brunswick, Prince Edward Island and the Gulf or river St. Lawrence east of Father Point, or between any of such ports or places and ports or places outside of Canada."

Page 6, line 20. After "or" insert "any".

Page 6, line 24. Leave out "and not less than one hundred dollars."

Page 6, line 25. After "may" insert ", subject to the provisions of this section,".

Page 6, line 26. For "and" substitute "and/or".

Page 6, line 38. For "or" substitute "and".

Page 6, line 39. Insert the following as subclause (6):—

"(6) The provisions of subsection five shall apply only to—

(a) interurban air services, and

(b) cases where the Board reports to the Minister, as, upon being satisfied as to the facts, it may, that within a particular stated area, or between particular stated points or places a reasonably regular air service has been established and is being maintained, to which service in the opinion of the Board, all the provisions of this Part may fittingly be applied."

Page 7, lines 9 to 12, inclusive. After "dollars" leave out all the words to the end of the subclause.

Page 7, lines 13 to 17, inclusive. Leave out subclause (3).

Page 7, line 40. After "or" insert "any".

Page 7, line 44. Leave out "and not less than one hundred dollars."

Page 8, line 1. After "may" insert ", subject to the provisions of this section,".

Page 8, line 2. After "transport" insert "or to carry, as the case may be,".

Page 8, line 2. For "or" substitute "and/or".

Page 8, lines 8 to 11, inclusive. For subclause (4) substitute the following:—

"(4) The Minister may, in any licence relating to a public commercial vehicle or vehicles, prescribe—

(a) the schedule of services which shall be thereby maintained, and

(b) the route or routes which, subject to the laws of any province affected, shall be thereby followed."

Page 8, line 15. For "or" substitute "and".

Page 8, line 16. After "necessity." insert ", nor shall the Minister issue a licence in respect of any public or private commercial vehicle the licensed route whereof runs, in whole or in part, over any part of any Dominion highway, unless the Board has certified that the vehicle conforms to such standards of design and operating efficiency as the Board deems necessary for like vehicles travelling on the Dominion highway concerned, and it shall be a condition of every such last mentioned licence that the licensed vehicle shall be maintained in a fit and serviceable state, and the Board may at any time suspend or cancel such licence if the licensee fails or omits, on demand, to satisfy the Board that the vehicle is being so maintained."

Page 8, lines 17 to 27, inclusive. Leave out subclause (6).

Page 8, lines 28 to 50, inclusive. For clause 15 substitute the following:—

"15. The Board may, with the approval of the Governor in Council, make regulations—

(a) for executing all or any of the purposes of the next preceding section;

(b) prescribing the procedure and basis upon which renewal of any licence under this Part may be granted; and

(c) generally, looking to the proper administration of this Part."

Page 9, lines 1 to 4, inclusive. For clause 16 (1) substitute the following:—

"16. No goods or passengers shall be transported by means of a public or private commercial vehicle upon a Dominion highway or in interprovincial or foreign trade unless the vehicle is licensed under this Part."

Page 9, lines 10 to 13, inclusive. Leave out the words "and not less than two hundred dollars, and every motor vehicle by means of which goods or passengers are transported contrary to the provisions of this Part shall be subject to forfeiture as hereinafter provided."

Page 9, lines 20 to 23, inclusive. For subclause one of clause 17 substitute the following:—

"17. The provisions of this Part and also any other provisions of this Act in so far as they relate to transport by highway shall not come into force in any province until proclaimed by the Governor in Council to be in force in such province and thereafter shall apply in any such province only to the transport of goods and passengers on Dominion highways and in interprovincial and foreign trade on other highways to which the said provisions are made applicable by proclamation of the Governor in Council."

Page 9, line 36. After "inquiry" insert ", and at the conclusion thereof report in writing to him,".

Page 9, line 40. After "regard" insert "*inter alia*".

Page 10, line 33. After "special" insert "or competitive".

Page 11, line 5. For "whose" substitute "who considers that his".

Page 11, line 7. For "whose" substitute "his".

Page 11, line 10. Leave out "and".

Page 11, line 12. After "traders," insert "and".

Page 11, line 47. For "whose business" substitute "who considers that his business".

Page 11, line 49. Leave out "and".

Page 11, line 51. After "traders," insert "and".

Page 12, lines 3 and 4. For "for its approval of the agreed charge to be withdrawn" substitute "for the withdrawal of its approval of the agreed charge".

Page 12, line 10. Leave out "under the last preceding subsection".

Page 12, line 20. For "the last preceding subsection" substitute "subsection five of this section".

Page 12, line 44. Insert the following as clauses 24 and 25:—

"24. Nothing in this Part contained shall affect any right or obligation, granted or imposed, by the *Maritime Freight Rates Act*."

"25. This Part shall not come into force until proclaimed as in force by the Governor in Council."

Page 12, lines 45 and 46 and Page 13, lines 1 to 28, inclusive. Leave out the whole of Part VII of the Bill.

Page 13, line 37. Leave out "It shall be the duty of".

Page 13, line 37. After "Board" insert "may,".

Page 13, line 39. Leave out "to".

Page 13, line 40. After "consideration" insert "*inter alia*,".

Page 14, line 22. Insert the following as subclause (2):—

"(2) If evidence is offered to prove,

(a) that during the period of twelve months next preceding the coming into force of the relevant Part of this Act on, in or in respect of the sea or inland waters of Canada, or the part of Canada, or the highway to which the application for a licence relates, the applicant was *bona fide* engaged in the business of transport, and

- (b) that the applicant was during such period using ships, aircraft or motor vehicles as the case may be (hereinafter referred to in this section as "vehicles") for the purpose of such business, and
- (c) the extent of the user of such vehicles including the capacity of the same to transport and the services maintained or performed by means thereof,

the Board shall, if satisfied with such proof, accept the same as evidence of public convenience and necessity to the extent of the user so proved and issue its certificate accordingly: Provided, however, that a ship temporarily out of service during the period of twelve months aforesaid shall nevertheless be deemed to have been in use during such period."

Page 14, lines 34 to 48, inclusive. Leave out the whole of clause 32.

Page 15, line 3. After "officer" insert "or".

Page 15, lines 3 and 4. Leave out "or servant".

All which is respectfully submitted.

GEO. P. GRAHAM,
Chairman.

