1951

THE SENATE OF CANADA

PROCEEDINGS

OF THE

STANDING COMMITTEE

ON

Transport and Communications

On the Report of the Royal Commission on Transportation.

No. 1

THURSDAY, NOVEMBER 15, 1951

The Honourable Adrian K. Hugessen, Chairman

WITNESS:

Mr. F. D. Smith, K.C., and Mr. Rand H. Matheson of the Maritime Transportation Commission, representing the provinces of New Brunswick, Nova Scotia, Prince Edward Island and Newfoundland.

OTTAWA
EDMOND CLOUTIER, C.M.G., O.A., D.S.P.
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1951

STANDING COMMITTEE

ON

TRANSPORT AND COMMUNICATIONS

The Honourable ADRIAN K. HUGESSEN, *Chairman*

The Honourable Senators:

Aseltine	Horner
Baird	Hugessen
Campbell	Kinley
Davis	McLean
Dessureault	Nicol
Gershaw	Paterson
Grant	Raymond
*Haig	*Robertson
Hawkins	Reid
Hayden	

*Ex officio member.

ORDER OF REFERENCE

EXTRACT from the *Minutes of the Proceedings* of the Senate, Friday, 19th October, 1951.

Ordered, That the Standing Committee on Transport and Communications be authorized to examine and report upon the Report of the Royal Commission on Transportation and especially upon the proposal to equalize freight rates and the effect of such proposal on specific areas of Canada.

That the said Committee be empowered to send for persons, papers and records.

That the Committee be authorized to sit during adjournments of the Senate.

ATTEST.

L. C. BOYER,
Clerk of the Senate.

95984—1½

MINUTES OF PROCEEDINGS

THURSDAY, November 15, 1951.

Pursuant to adjournment and notice the Standing Committee on Transport and Communications met this day at 11 A.M.

Present: The Honourable Senators: Hugessen, Chairman; Baird, Davis, Dessureault, Gershaw, Grant, Haig, Hawkins, McLean, Nicol, Paterson and Reid.—12.

In attendance: Mr. J. F. MacNeill, K.C., Law Clerk and Parliamentary Counsel. The official Reporters of the Senate.

The Committee proceeded to the consideration of the Order of Reference of Friday, October 19, 1951.

Mr. F. D. Smith, K.C., and Mr. Rand H. Matheson of the Maritime Transportation Commission, representing the provinces of New Brunswick, Nova Scotia, Prince Edward Island and Newfoundland, were heard with respect to the views of the Maritime Provinces on the recommendations made in the Report of the Royal Commission on Transportation.

On motion of the Honourable Senator Haig, seconded by the Honourable Senator McLean, it was RESOLVED to report recommending that authority be granted for the printing of 300 copies in English and 100 copies in French of the proceedings of the Committee upon the Report of the Royal Commission on Transportation.

At 12.45 P.M. the Committee adjourned to the call of the Chairman.

ATTEST.

JAMES D. MacDONALD,
Clerk of the Committee.

MINUTES OF EVIDENCE

THE SENATE

OTTAWA, Thursday, November 15, 1951.

The Standing Committee on Transport and Communications, which was authorized to examine the Report of the Royal Commission on Transportation, met this day at 11 a.m.

Hon. Mr. HUGESSEN in the Chair.

The CHAIRMAN: Gentlemen, the committee has a quorum and I suggest that perhaps we might come to order. Before we begin I wish to apologize to the committee for having been away yesterday. However, I am perfectly certain that Senator Kinley, who acted as chairman, made up for any deficiencies that I might have exhibited.

Gentlemen, we have before us this morning Mr. F. D. Smith, K.C., and Mr. Rand H. Matheson who together represent the Maritimes Transportation Commission and the four Maritime provinces, en bloc. Would the committee like to have a statement from either or both of these gentlemen by way of starting our proceedings?

Hon. Mr. HAIG: Mr. Chairman, we were sorry that you were not here yesterday, for we appreciate your chairmanship. In your absence Senator Kinley brought this matter up and some of us suggested—I think Senator Robertson did, and I know that I did—that we should not go over the whole bill. We were anxious to have representatives of the Maritime provinces come before us and state how this proposed legislation will affect their provinces. We want to know not only their objections, but what problems the bill raises for them. When we have heard all that, then after we have heard the railways it may be necessary to ask these gentlemen to come back. In the meantime we do not need them to give us the details of the whole bill—at least, that was the understanding we came to yesterday.

I think Mr. Smith and Mr. Matheson ought to know this, that the Senate is in a different position from that of the House of Commons with respect to legislation, and especially legislation of this kind. As senators we have a duty to the provinces that the ordinary member of the House of Commons has not got. We are appointed as representatives of provinces and localities, and therefore we are very anxious to protect them. I am a senator from Manitoba, but I do not promise to agree to everything that Manitoba wants. I do not promise anything, but I do want to know what the nature of the problem is.

As I understand it, that is the understanding we came to yesterday. I do not know whether the committee agrees with what I have said.

Hon. Mr. HAWKINS: That is a clear statement of our understanding.

Hon. Mr. KINLEY: We want to hear the general story.

Hon. Mr. DAVIS: Yes, we want generalities rather than details at this time.

The CHAIRMAN: Does the committee as a whole agree with what has been said by Senators Haig, Hawkins, Kinley and Davis?

Some Hon. MEMBERS: Yes.

Hon. Mr. HAWKINS: I think we should give Mr. Smith an opportunity to develop his case along his own lines. I think he should not be restricted by the general understanding that we came to yesterday.

The CHAIRMAN: No, but it is useful to these gentlement to know the general line along which the committee is proceeding.

Which of you two gentlemen would like to address us?

Mr. F. D. SMITH, K.C.: I would, Mr. Chairman.

Hon. Mr. KINLEY: Mr. Smith, you are representing the province of Nova Scotia?

Mr. SMITH: I am representing the four Maritime provinces, senator.

Hon. Mr. KINLEY: That is Newfoundland, Prince Edward Island, New Brunswick and—

Mr. SMITH: — and Nova Scotia, last but not least.

Mr. Chairman and gentlemen, may I at the outset thank you very cordially for the opportunity of presenting our views to this very important committee. We in the Maritime provinces regard this proposed legislation as a very important matter, and it is for this reason that we have come here to make representations to you. We trust that nothing we say will be regarded as presenting the case in other than its true light or perspective.

Perhaps first it is necessary for us to indicate something of the position and background of the Maritime provinces, including Newfoundland, with respect to the freight structure of Canada. It will also be necessary for me to deal with some matters which have arisen in the last five years. I am not going to bore you, I trust, with history or grievances or anything of that nature. I merely wish any references I make to what has happened in the past to have some application to the matters which are in issue.

The legislation with which I propose to deal is Bill 12, an Act to amend the Railway Act.

The CHAIRMAN: Just a moment, Mr. Smith. Has every member of the committee got a copy of Bill 12?

Hon. Mr. KINLEY: A copy was distributed to every member.

Hon. Mr. HAIG: I have not got one.

(Copies of the bill were then distributed.)

Mr. SMITH: As I was saying, the bill with which I propose to deal is Bill 12, An Act to amend the Railway Act. I suppose you will be pleased to learn that I do not intend to deal with it clause by clause, but merely to discuss the section which deals with the national policy of equalization. I know that at this time, as has been indicated by honourable gentlemen, the matter is to be treated in a somewhat general way, and I shall try to see that that is done, in so far as is possible.

I think that to understand what the clause with which I propose to deal covers, it is necessary to refer in passing to what I conceive to be the purpose of the legislation. The section or clause is section 7, and you will observe that this repeals sections 328 to 332 of the Railway Act and substitutes therefore certain new sections. The one to which I am directing my observations is section 332A, which is found on page 4 of the bill. Perhaps my purpose would be served if I read that at this time.

The section 332A (1) reads:

> "It is hereby declared to be the national freight rates policy that, subject to the exceptions specified in subsection four, every railway company shall, so far as is reasonably possible, in respect of all freight traffic of the same description, and carried on or upon the like kind of cars or conveyances, passing over all lines or routes of the company in Canada, charge tolls to all persons at the same rate, whether by weight, mileage or otherwise".

That is the general declaration of the national policy, and in order to implement the national freight rates policy so declared, the Board by subsection 2 is authorized to require,

> "any railway company (a) to establish a uniform scale of mileage class rates applicable on its system in Canada, such rates to be expressed in blocks or groups, the blocks or groups to include relatively greater distances for the longer than for the shorter hauls."

That, as you will observe, deals with mileage class rates. Perhaps it would be in order at this time to refer to the earlier provisions which are found on page 3 of the Bill.

Section 328 (1) repeals the earlier section of the same number in the Railway Act, in which the various kinds of rates are defined. Mr. Chairman and honourable gentlemen will note by the marginal note that the rates which are provided for at the present time are standard freight tariffs, special freight tariffs and competitive tariffs. Section 329 deals with special rates or commodity tariffs, in line with the recommendation of the Royal Commission on Transportation, which recommended a new class—perhaps category is the better word—of rates.

If the committee will refer to the proposed section 328 (1), it will be observed that the section provides for class rate tariffs, for commodity rate tariffs and for special arrangement tariffs; further, there will be found there the definitions of these separate categories. So perhaps I need not dilate upon that, but just come back to the section with which I was first dealing, namely, section 332 (A) (2).

You will observe, Mr. Chairman and Gentlemen, that the Board in order to implement the national policy is to establish a uniform scale of mileage class rates; and paragraph (b) of that subsection provides for a like establishment of mileage commodity rates:

> " a uniform scale of mileage commodity rates applicable on its system in Canada, such rates to be expressed in blocks or groups, the blocks or groups to include relatively greater distances for the longer than for the shorter hauls;"

And (c),

> "to revise any other rates charged by the company."

It will be observed that subsection 4 of that section contains certain exception. Perhaps I should read the subsection.

> "Subsections one, two and three are subject to the proviso to subsection five of section three hundred and twenty-five of this Act—"

That is the section of the Railway Act which deals with the so-called Crow's Nest Pass rates which, as the committee knows, relates to the carriage of grain and grain products, and this provision excepts from the operation of the equalization policy all the rates that are affected under the so-called Crow's Nest Pass arrangement. The subsection goes on:

> " . . . and to the Maritime Freight Rates Act—

I intend to say something later as to the effect of that provision. Continuing:

> " . . . and do not apply in respect of
>
> (a) Joint international rates between points in Canada and points in the United States of America;"

In passing, I think the reason for that exception is that joint international rates are to a large extent beyond our control in Canada, by reason of the fact that they are controlled by movements in the United States.

Paragraph (b) reads:

"rates on export and import traffic through Canadian ports, where in practice such rates bear a fixed and long-standing relationship with rates on similar traffic through ports in the United States of America."

There has been for many years a system between the United States and Canada whereby certain Atlantic ports in Canada have a relationship to a corresponding American port. For instance, Montreal has a relationship with Philadelphia in the United States; Halifax and Saint John have a relationship with New York. That is the reason the exception is provided.

Hon. Mr. PATERSON: Mr. Smith, may I interrupt you for a minute? Near the top of page 5 these words appear:

... charge tolls to all persons at the same rate, whether by weight, mileage or otherwise.

Yet the provision would seem to empower the Board to make special rates. Does that not suggest to you a contradiction?

Hon. Mr. DAVIES: No, it says "may".

Mr. SMITH: Yes; it uses the word "may". Perhaps I can come back to that question later.

I turn now to competitive rates. We all know that competitive rates are rates that are put into effect by reason of the railways having to compete with water and truck competition, and in essence the railways, if they wish to get the business, have to in many cases meet the competition from other rates, and therefore their rates are on a lower scale.

Hon. Mr. REID: Does that not also mean competitive U.S. rates?

Mr. SMITH: Yes, you are quite right, Senator. Paragraph (*d*) reads:

"agreed charges authorized by the Board under Part V of The Transport Act, 1938;

(*e*) rates over the White Pass and Yukon route; and (*f*) any other case where the Board considers that an exception should be made from the operation of this section."

I do not think it will be necessary for me to refer to most of those exceptions, but I will deal later with one having to do with the Maritime freight rates.

You will see, therefore Mr. Chairman and Gentlemen, that this Act contains a declaration of national freight policy, and it implements that policy in this way: The Board may require the railway companies to establish these uniform scale and class rates and uniform scale of mileage commodity rates.

I think it is now necessary for me to delve a little into the history of the subject, and to deal with what I conceive to be the special position of the part of Canada which I represent. Mr. Matheson has prepared a memorandum which he has supplied to the members of the committee, and which deals with the subject at much greater length than I propose to deal with it. It covers the evolution and growth of rate structure in Canada.

I think I can make some passing reference that will indicate generally what we conceive our position to be. At Confederation there was no railway between what are now the Maritime provinces and central Canada and, as you all know, section 145 of the B.N.A. Act provided for the construction of a railway. The preamble to the Duncan Report, which was a report on the Maritimes Claims in 1926, and which resulted in the passing of the Maritime Freight Rates Act, 1927, appears at the top of page 3 of the memorandum, and read as follows:

Whereas the Royal Commission on Maritime Claims by its report, dated September 23rd, 1926. has, in effect, advised that a balanced study

of 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 the 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.

It is interesting, perhaps, to refer to what was the rate structure in the Maritimes from the time of construction, in 1876, of the Intercolonial Railway and its operation. It was a Government railway, operated by the Government of Canada; and I do submit, Mr. Chairman and gentlemen, that commercial considerations were subordinated in very truth, as stated by the Duncan Commission in its report, with the result that in Canada we had a rate structure which was not the same all over Canada. At that time, of course, there was no West. Later, the construction of the Canadian Pacific Railway opened up the West, and other railways were built there. What I wish to emphasize is that there was a peculiar rate structure in the Maritimes. The Board of Transport Commissioners in its decisions, which perhaps may be referred to in civil law as jurisprudence, dealt with these matters from time to time, and we had a rate structure all over Canada which was adapted to the needs as best could be of the whole of Canada. That at least was the aim of the Transport Commissioners; and, prior to the creation of the Board of Transport Commissioners, I think the Railway Committee of the House of Commons dealt with these matters.

The CHAIRMAN: Of the Privy Council.

Mr. SMITH: Of the Privy Council, yes.

So what is this system that I am speaking about? It is a system of railway freight structure which is based on what are called arbitraries and what are called groups. To illustrate what I call "groups" Mr. Matheson has a chart which shows that situation in the three Maritime Provinces. Unfortunately I have not here a chart of Newfoundland, but perhaps at this time I might bring it into the picture and deal with the situation as far as Newfoundland is concerned.

By the terms of union there was provision for a freight rate structure in Newfoundland. Section 32(1) provides that—

> "Canada will maintain in accordance with the traffic offering a freight and passenger steamship service between North Sydney and Port aux Basques, which, on completion of a motor highway between Corner Brook and Port aux Basques, will include suitable provision for the carriage of motor vehicles."

Subsection 2, which I think is the one that is important, reads:

> "For the purpose of railway rate regulation the Island of Newfoundland will be included in the Maritime region of Canada, and through-traffic moving between North Sydney and Port aux Basques will be treated as all-rail traffic."

Subsection 3 provides that:

> "All legislation of the Parliament of Canada providing for special rates on traffic moving within, into, or out of, the Maritime region will, as far as appropriate, be made applicable to the Island of Newfoundland."

As you all know, the Act approving the terms of union was passed in 1949. It is a very short Act: Chapter 1 of 13 George VI, assented to on February 18, 1949. It provided:

> "The agreement set out in the Schedule to this Act is hereby approved."

The Schedule was the Terms of Union.

I hope I am not unduly prolonging this statement, but I thought it was necessary just to set out the position of Newfoundland. There was a case before the Board of Transport Commissioners as to the meaning of these provisions, and the Board of Transport Commissioners in effect decided that the same rate structure should apply in Newfoundland as in the Maritimes, and for that purpose they set out groupings somewhat in the same manner as the groupings in the Maritime Provinces. I intend to deal with what is called the grouping system.

Hon. Mr. DAVIS: May I ask a question about Newfoundland? Do these grouping systems extend from Port aux Basques to St. John's; and in what way are they divided on the Island of Newfoundland?

Mr. SMITH: They have the grouping systems there, based on the mainland system. There are four groups there, Senator.

Hon. Mr. BAIRD: What would they be from?

Mr. MATHESON: From North Sydney to Port aux Basques, 107·7 miles; from Port aux Basques to Humbermouth, a distance of 142 miles; from Humbermouth to Bishop's Falls; and a long group from Bishop's Falls into St. John's.

Mr. SMITH: I say that there is a grouping system in the Maritimes; in fact there is a different grouping system with respect to westbound traffic than there is with respect to eastbound traffic. The reason for that largely is the passing of the Maritime Freight Rates Act in 1927. This chart which I have in my hands would indicate that for westbound groupings in the Maritimes there is one large group which extends from the western limits of this territory, almost the western limits, right to Halifax, a distance of about 640 miles. That is one grouping, the so-called Halifax grouping.

Hon. Mr. REID: What do you mean by "grouping"?

Mr. SMITH: Every movement of freight in that large area takes the same rate and is not based on mileage.

Hon. Mr. REID: I just wanted to get it clear.

Mr. SMITH: So that if I am shipping goods from Halifax I get the same rate westerly as I would, say, from Newcastle or Campbellton.

Hon. Mr. PATERSON: On the same commodity?

Mr. SMITH: Yes.

Hon. Mr. DAVIS: Is that shipping inside the group or outside the group?

Mr. SMITH: Outside the group to points Montreal and west. There are four groups westbound. There is what is called the Mulgrave or Sydney grouping. That is to say, if I were shipping goods from Sydney, for instance, the freight from Sydney or anywhere within that group would take the same rate, and that rate would be arrived at by adding the freight for that group over and above the Halifax grouping. I do not think I need go into details but there are smaller groups down on the South Shore, which Senator Kinley would be familiar with. That is attributable to the fact that the South Shore

Railway was built by the Halifax and Southwestern, which was one of the Canadian Northern group. It has a grouping for comparatively smaller distances than the large grouping, and that applies in some instances to the Dominion Atlantic Railway. In any event, that is the situation so that when the Board of Transport Commissioners dealt with the application before it in Newfoundland they established similar groups. As Mr. Matheson explained, they had four groups. For eastbound traffic the groupings are not as large in the Maritime Provinces. There is a group which embraces New Brunswick and one which embraces Halifax and two to Sydney or Mulgrave. The large grouping of 646 miles on westbound traffic was made necessary in order to apply the provisions of the Maritime Freight Rates Act. As you know, this Act provided for a reduction in the existing tariffs on the westbound movements into the rest of Canada and the movements in the territory itself, and the existence of this exceptionally large group of 646 miles was necessary in order that the rates from intermediate points would not be higher than from points at the limit of the group. Those are the groupings within what I may call the territory.

Then we have next the arbitrary system. This is defined by Mr. Matheson in his memorandum at page 8 as follows:

> "An arbitrary structure is based on adding or deducting fixed amounts from a rate from one station to make a rate from another, or a fixed amount added to or deducted from a rate to one station to make a rate to another station."

I do not know if that explanation is any clearer than I could give in my own words.

Hon. Mr. BAIRD: It is rightly termed?

Mr. SMITH: Yes. Here is the situation. Say that on a movement of traffic from Halifax to Toronto there is set up an arbitrary over Montreal. In other words, the rate from Halifax to Montreal is a certain amount for example, $1.34 per 100 pounds first class from Montreal to Toronto with the through rate from Halifax to Toronto being $1.69. In other words, there is a difference between the carriage of goods from Halifax first class to Toronto over Montreal of 35 cents. That is what we call an arbitrary. That is what is known as an arbitrary. In other words, although the distance from Halifax to Montreal is approximately 800 miles, and the distance from Montreal to Toronto is something like 334 miles, there is, as you will see, only a difference of 35 cents for the carriage of freight over the longer 800 miles. That is peculiar to the freight rate structure in Canada. As we go farther to the west there is what is known as an arbitrary at Fort William, which is worked out on a similar basis. I do not want to bore the committee with details, and perhaps I would be over my head if I were to try to do so, but I at least want to give you the general picture. This system of arbitrary and groupings has been recognized as an integral part of the whole Canadian structure of freight rates. It is only necessary to refer to some of the judgments of the Board on this point. They are referred to in the memorandum. First of all I would refer honourable senators to page 8, the second quotation, which is a passage from a decision in the Reductions Case of 1922.

> "This system of rate making between the territories in question was in effect long before the creation of the Board and has since been carefully considered, particularly in the Eastern Rates Case in 1916, more extended reference to which is contained in the judgment in that case; it is an integral part of the whole class rate structure in Eastern Canada and could not be changed without involving disturbance of the entire rate fabric in this territory."

That also has been referred to in later cases and was indeed referred to in the report of the Royal Commission.

The CHAIRMAN: I am sorry to interrupt, Mr. Smith, but I am afraid I do not understand the basis of this arbitrary rate. You have, say, a rate from Halifax to Montreal of $1.34.

Mr. SMITH: I do not want to mislead you. I will get these rates straight from Mr. Matheson and give them to you now.

Hon. Mr. HAIG: It does not matter what the rates are. The illustration is correct.

Mr. SMITH: If there is anything we can do to assist you, we want to do it.

Mr. MATHESON: The present rate from Halifax to Montreal is $1.42.

The CHAIRMAN: And from Halifax to Toronto is what?

Mr. MATHESON: It is $1.69. The Montreal-Toronto rate is $1.34, and it is based on an arbitrary over Montreal of 35 cents. If you take the difference between $1.42 and $1.69 you get a different arbitrary, but that is not how it is based. It is based on a Montreal-to-Toronto rate of $1.34, and the rate from Halifax to Toronto is $1.69, so therefore the arbitrary over Montreal is 35 cents.

The CHAIRMAN: In other words, on freight originating in that area and destined beyond Montreal you have an arbitrary rate as far as Toronto, and that has nothing to do with what the local rate is from Montreal to Toronto?

Mr. MATHESON: That is right.

Hon. Mr. DAVIS: If you took the rate from Halifax to Montreal and added that to the local freight rate from Montreal to Toronto, how would that compare with the rate from Halifax to Toronto?

Mr. MATHESON: That would give you a combination rate of $1.42 to Montreal plus a rate of $1.34 to Toronto, which is $2.76.

Hon. Mr. DAVIS: But the rate from Halifax to Toronto is $1.69.

Mr. MATHESON: Yes, sir.

Hon. Mr. DAVIS: Instead of $2.76?

Mr. MATHESON: I do not think you can very well make a comparison of that kind, sir. The crux of the thing is that the rate of $1.69 is based on an arbitrary of 35 cents over the $1.34.

Mr. SMITH: We do not want to get into details.

Hon. Hr. HAIG: We have a similar situation in the West. You will find a certain rate to one point, but if you go beyond that the rate will be very much higher.

Hon. Mr. REID: It just makes you dizzy.

Hon. Mr. HAIG: We do not want Mr. Smith to go into details.

Mr. SMITH: I would be over my head if I did.

Hon. Mr. HAIG: You would get drowned.

Mr. SMITH: What I was trying to point out was that in the Maritime provinces, including Newfoundland, we have a freight rate structure which has been recognized over the years and has been approved and not disturbed.

Hon. Mr. HAIG: This proposed legislation does not disturb that?

Mr. SMITH: That is the point. I am coming to that. I do not want it to be disturbed.

Hon. Mr. PATERSON: That is the point of the whole thing?

Mr. SMITH: That is the point of the whole thing. Perhaps I have been a little too long getting to it.

Hon. Mr. HAIG: Oh, no. Assume that we do not know anything about it.

Hon. Mr. NICOL: You have spoken of the Intercolonial route, which I understand was built for military purposes. How much shorter would the business route have been?

Mr. SMITH: Well, the Duncan Commission Report put it at roughly 250 miles.

Hon. Mr. MACLEAN: Had it crossed Maine, like the Canadian Pacific Railway, it would have been shorter than that, would it not?

Mr. SMITH: I am just taking what is stated in the Duncan Commission Report, roughly 250 miles.

I have not dealt with the Maritime Freight Rates Act, but I think perhaps that in order to give a comprehensive picture I have to make reference to that. As I have said, that Act was passed to implement the report of the Duncan Commission, and the recommendation of the Duncan Commission was brought about by, if I may say so, a somewhat similar situation to that which we are meeting now, namely, a system of proposed equalization. What happened was that in the years when the Intercolonial Railway was operated by the government the freight rates structure was lower than if it were based on commercial considerations. I do not want to go into history again, but later there was a change in the management of the Canadian Government Railways, and in 1923 they came under the jurisdiction of the Board. But in the years between 1912 and 1926 there was on the part of the managers of the Intercolonial Railway an attempt—a pretty effective attempt—at bringing up the rates in the Maritime provinces to a higher level than the rates in the rest of Canada, with the result that during that period the rates were increased, as found by the Duncan Commission, by approximately 92 per cent on the rates that existed previously. During the same time there was a levelling-up process in central Canada and the rest of Canada. As senators from Western Canada know, there has been a demand on the part of the western provinces for equalization. In any event, in the rest of Canada the rates came up 55 per cent, and in the Maritime provinces 92 per cent.

The Duncan Commission found that the position of the Maritime economy suffered grievously from this levelling-up process, and in order to alleviate the situation they put into effect a somewhat simple method of dealing with it. Their recommendation was that on what is called preferred movements in the select territories—the select territories are defined as the lines of the Canadian National Railways on points from Diamond Junction or Levis to the East—there should be a reduction of approximately 20 per cent in the rates that were in force at that time. So in 1927 the Maritime Freight Rates Act was passed. It is chapter 79 of the Revised Statutes of 1927. I am not going to deal with it at any length, but just give you an idea of what was intended. Roughly all existing tariffs were cancelled on what are called the preferred movements in the eastern lines, and the Board was directed to approve the cancellations and to substitute a tariff of tolls so that there could be maintained such substituted tariffs, subject to all the provisions of the Railway Act, not inconsistent with the Act, at a general rate level of approximately 20 per cent below the tolls or rates existing on the 1st of July, 1927, while the cost of railway operation in Canada remains approximately the same as at the said date. I do not think I need to refer further to this Act, except to point out what are the preferred movements. They are defined, Mr. Chairman and Gentlemen, in section 4, of the Maritime Freight Rates Act. This is the section:

"(a) Local traffic, all rail—Between points on the Eastern lines—"
That is within the select territory.

"(b) Traffic moving outward, westbound, all rail—"
That is to the rest of Canada.

"(c) Traffic moving outward, export traffic, rail and sea."

The preferred movements do not include traffic inward or outward to or from the United States.

Hon. Mr. KINLEY: All rail?

Mr. SMITH: All rail, yes and Traffic moving inward, eastbound from Canada, all rail, and import traffic to Canada originating at points overseas.

It was declared, therefore, by section 7 that:

> "The rates specified in the tariffs of tolls, in this Act provided for, in respect of preferred movements, shall be deemed to be statutory rates, not based on any principle of fair return to the railway for services rendered in the carriage of traffic; and no argument shall accordingly be made, nor considered in respect of the reasonableness of such rates with regard to other rates, nor of other rates having regard to the rates authorized by this Act."

Section 8 reads:

> "The purpose of this Act is to give certain statutory advantages in rates to persons and industries in the three provinces of New Brunswick, Nova Scotia and Prince Edward Island, and in addition upon the lines in the province of Quebec mentioned in section two, together hereinafter called 'select territory,' accordingly the Board shall not approve nor allow any tariffs which may destroy or prejudicially affect such advantages in favour of persons or industries located elsewhere than in such select territory."

With that brief statement of the background of the Maritime Freight Rates, perhaps I would be allowed—

Hon. Mr. MACLENNAN: Mr. Chairman, may I make an observation? The witness said that the freight rates were increased by 55 per cent all over Canada, at a certain time.

Mr. SMITH: 55 per cent.

Hon. Mr. MACLENNAN: But in the Maritimes there was an increase of 9½ per cent.

Mr. SMITH: Yes.

Mr. MACLENNAN: Then the Maritime Freight Rates Act merely levelled it off again.

Mr. SMITH: Yes, with the 20 per cent.

Mr. MACLENNAN: That is, levelled it off with the rest of Canada.

Mr. SMITH: Yes.

Mr. MACLENNAN: It has been cast up to me as many times as I have hairs on my head about what great concessions on freight rates the Maritime provinces have received. Now I learn that there were no concessions at all; the Maritimes were merely put on a par with the rest of Canada.

Mr. SMITH: Yes; that is the provision of the Maritime Freight Rates Act.

Hon. Mr. KINLEY: Mr. Smith, if the 20 per cent applies only to westward traffic, how about the rise of rates on eastward traffic on which there is no 20 per cent?

Mr. SMITH: I propose, Mr. Senator, to deal with that point. I have said that this bill, as proposed, would except the Maritimes Freight Rates Act. I intend to deal further with that question, and to say that in itself it does not give us the measure of protection which we are entitled to. But I shall deal with that later. I regarded it as necessary, in dealing with the whole question, to give you a short history of the rate structure.

My major premise is that it is our entire freight structure in the Maritimes—not only the Maritime Freight Rates Act—that is put in jeopardy, by the passage of this Bill. Perhaps that language is too strong, but at least that is my submission. I say that the freight rate structure is based on the system of low arbitraries and large groupings, and as I read the provisions of the Bill the Board, with the declaration of policy as contained in this Bill, will no longer be able to allow those to remain in existence; in other words, it will result in the abolition of those groupings.

Having given a very brief, and I fear perhaps an altogether unsatisfactory description of our position, I propose to deal with the terms of the Bill, for I know that is what I am here for and I think that is what you are concerned with. Speaking as a lawyer—and sometimes one has an opportunity to do that—I should like to give what I conceive to be the interpretation of the section in question.

There have been many discussions and it has been pointed out that the words of Subsection 2 of section 332 are merely permissive; that is, the word "may" is used and, as it is not obligatory upon the Board to effect these changes in class and commodity rates, we in the Maritime provinces have at this time nothing to complain about, but must wait to see what the Board of Transport Commissioners do. Now I submit, Mr. Chairman and Gentlemen, that if that is the case we are in a grievous position.

Here are the provisions of the Bill, and I shall have to deal with them in some detail.

Hon. Mr. DAVIES: But are you not going to be protected by your present Maritime Freight Rates Act?

Mr. SMITH: No; I don't think so, and I propose to deal with that very question. If I may anticipate my observations, Senator, all that it would mean is that we would have 20 per cent protection. It would really mean that we would be in a much worse position than we are now, but may I deal with that point later?

Let us look at the Bill. Section 332A (1) reads:

> "It it hereby declared to be the national freight rates policy that subject to the exceptions specified in subsection four, every railway company shall, so far as is reasonably possible, in respect of all freight traffic of the same description, and carried on or upon the like kind of cars or conveyances, passing over all lines or routes of the company in Canada, charge tolls to all persons at the same rate, whether by weight, mileage or otherwise."

That is the declaration of policy. That is the uniform system of equalization of rates, as I conceive it to be, and that will be the overriding declaration of policy, or the directive to the Board. Then the Board may—because the word "may" is used—

> ". . . with a view to implementing the national freight rates policy, require any railway company
>
> (*a*) to establish a uniform scale of mileage class rates applicable on its system in Canada, such rates to be expressed in blocks or groups, the blocks or groups to include relatively greater distances for the longer than for the shorter hauls;
>
> (*b*) to establish for each article or group of articles for which mileage commodity rates are specified, a uniform scale of mileage commodity rates applicable on its system in Canada, such rates to be expressed in blocks or groups, the blocks or groups to include relatively greater distances for the longer than for the shorter hauls."

I say that it will be the duty of the Board, with such a declaration of policy, to put that into effect. True, the word "may" is there, but there is a declaration of policy.

The CHAIRMAN: You contend it will be the duty of the Board to do that.

Mr. SMITH: It will be the duty of the Board to do that, sir. The Board will work out the details, but they must use this system. I say that if that system goes into effect, out goes our whole freight structure in the Maritime provinces; that, as I have said, is the groupings and the arbitraries—and not the kind of groupings that the Royal Commission had in mind. It is not the kind of groupings where one finds in a movement to Toronto of some 600 odd miles.

The CHAIRMAN: Just to clarify your point: you say that if the Board has to carry out this policy as announced in subsection 1 on the freight rates, say, between Halifax and Toronto, they would have to add the regular rate grouping on freight from Montreal to Toronto to the rate from Halifax to Montreal?

Mr. SMITH: I would say the arbitrary system would go by the board.

Hon. Mr. REID: I should like to ask a question as to the use of the word "may". Most bills brought down to the House of Commons or the Senate use the word "may", and I have been told that in legal language it means "shall". But in this bill the railway is told in no uncertain terms, "shall", but when it comes to the Board, the word is "may". I would like to have the witness's opinion on that.

Mr. SMITH: It is my submission, for what it is worth, Senator, that coupled with the declaration of policy there can be no manner of doubt that the word "may" is equivalent to an obligation upon the Board to carry out the provisions of the national policy.

The CHAIRMAN: Supposing, to word it another way which means the same thing, you might start subsection (2) by saying "with a view to implementing the national freight rates policy, the Board is empowered to do so-and-so". That is really what it means? As Mr. Smith points out, the Board would feel bound to do that in the light of the general policy enunciated in subsection (1).

Mr. SMITH: That is my general argument. I think they would be derelict in their duty if they did not do it.

Hon. Mr. HAIG: In answer to Mr. Reid: there is no question that in the statutes there is a difference between the word "may" and the word "shall". That is, there is a difference in the legal meaning. In legislation the word "shall" is a much more powerful word than "may".

Hon. Mr. REID: What I had in mind was that the word "may" may be interpreted by the Board as "may" whereas in the statute it means "shall".

Hon. Mr. HAIG: Not always.

Mr. SMITH: It depends on the context.

The CHAIRMAN: I think in this context it means that the Board is empowered to.

Hon. Mr. HAIG: But "shall" has a different meaning altogether. "Shall" is "shall". You shall not do certain things.

Hon. Mr. NICOL: In the Marine Act "may" is interpreted as meaning "shall".

Hon. Mr. HAIG: Some statutes do that, but it is not as powerful a word as "shall".

Hon. Mr. REID: I am sceptical of the use of "may". I have been before the Board, and I just know how they interpret these things.

Hon. Mr. HAIG: But "may" is not as powerful as "shall".

Hon. Mr. KINLEY: How is this policy restricted or circumscribed by section 328?

Hon. Mr. HAIG: As I see it, Mr. Senator, 328 is a definition clause.

Hon. Mr. KINLEY: For instance, suppose they do establish equal rates, how much traffic will be carried on that? It is all by class rates and commodity rates and so on.

Mr. SMITH: I think section 328 is really to provide for a different category of rates than existed previously. At the present time we have what is called a standard tariff. We have two kinds of class rates, the standard freight tariff and the special class; and then we have the commodity rates.

Hon. Mr. KINLEY: "Competitive", is it not?

Mr. SMITH: If you will look at the marginal note on 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.
>
> 2. Such distances may be expressed in blocks or groups, and such blocks or groups may include relatively greater distances for the longer than for the shorter hauls.
>
> 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."

That is where you get the commodity rate, which under the present tariff is really a special tariff. You have a new terminology altogether in section 328. I do not think it deals with the question I am dealing with. It is really a definition.

Hon. Mr. KINLEY: It does not limit the policy?

Mr. SMITH: In no respect. First, it sets out the categories: class rate tariffs, commodity rate tariffs, competitive rate tariffs, and special arrangements tariffs. Then it proceeds to define them. There are ten classes, covering different goods.

The CHAIRMAN: There was another reason for inserting the new section 328, Senator Kinley. You will recall that the Turgeon Commission recommended the abolition of the standard rate tariff, and that disappears in the new section.

Mr. SMITH: So now you have class rates, commodity rates, competitive rates, and agreed charges.

Hon. Mr. REID: May I ask this question? In section 332 A it is specifically pointed out that all freight traffic has to be treated equally. But, in getting down to the commodity rates, it would seem to me that they are beginning to get out of the "all-freight" traffic by specifying commodity rates, because it is going to allow the company to take commodity rates only. If equalization rates are to apply, why single out certain commodity rates?

Mr. SMITH: They are singling out mileage commodity rates.. This is the one that is provided. You might have a rate from point to point, and then rates that are based on mileage. What they are dealing with here is, first class rates, and then mileage commodity rates, Mr. Senator.

Hon. Mr. HAIG: I suggest that we let Mr. Smith go on.

Mr. SMITH: I was dealing with what I conceived to be the effect of this provision, and I do not want to prolong the argument, but I do say that, in my respectful submission, there is only one interpretation possible in view of the context,—that under this provision in subsection (2), of section 332A, the Board, in order to carry out the duties which this subsection empowers it to

carry out, must obey the provisions of the national freight policy. And I say that if those provisions for one uniform scale were put into effect, and I submit they must be put into effect, there can be no other result than to disturb the whole freight structure of the provinces which I represent.

It has been pointed out in earlier judgments, to which reference is made in the memorandum, that that would be the effect if the arbitrary system were repealed. I have already quoted that statement and perhaps for greater emphasis I shall labour the point and mention it again. It is a quotation from the decision in the Reductions Case of 1922, and it appears at page 8.

> "This system of rate making between the territories in question was in effect long before the creation of the Board and has since been carefully considered, particularly in the Eastern Rates Case in 1916, more extended reference to which is contained in the judgment in that case; it is an integral part of the whole class rate structure in Eastern Canada and could not be changed without involving disturbance of the entire rate fabric in this territory."

I adopt these words as my own for the purposes of this discussion, and I submit that this bill will have the like effect. I do not know how far, Mr. Chairman, I should refer to matters that are pending before the Board of Transport Commissioners. Perhaps I will explain my position and bow to your ruling. After the decision in the so-called Twenty-one Per Cent Case in 1948, Order in Council 1487 was passed directing the Board of Transport Commissioners to make a study of the whole freight structure in Canada. Just to deal chronologically with what has happened, in 1948 there was an appeal from the decision in the Twenty-one Per Cent Case which was dealt with by the Privy Council. The Privy Council sent back the case for further consideration by the Board of Transport Commissioners. Later in 1948 there was the Order in Council constituting the Royal Commission on Transportation. I am not going to deal with any further facts but I just want to state that under the general freight investigation pursuant to the Order in Council issued before the appointment of the Royal Commission, the railways of Canada were asked to make a study and submit equalization plans. These plans were submitted to the Board in September of this year, and the point I am making is that as to whether or not it is open to me in discussing this matter with your committee to refer to any of the material in the plan of equalization which was filed by the railways. It is true that there has been a lot of publicity in the press about these things, and I do realize as a lawyer that the Board of Transport Commissioners are a court of record and that there is a rather well recognized rule dealing with matters *sub judice*. It may be that it does not apply with equal force to a matter of this kind as to when there are private litigants, but in any event I want to refer to it if I may in order to indicate something in a general way about what the railways have done in the matter of submitting an equalization plan. I should like a ruling, Mr. Chairman, as to whether or not it is permissible for me to so refer to the plans.

The CHAIRMAN: I should think that you are quite at liberty to do that, Mr. Smith. This is simply material which has been prepared by the railways and filed with the Board of Transport Commissioners showing what the railways think the effect of an equalization such as is prescribed by section 332(*a*) of the bill would be.

Mr. SMITH: It was an equalization plan under the earlier Order in Council, which was before the establishment of the Royal Commission, but it is an equalization plan.

The CHAIRMAN: Subject to what the committee may say, I should think that Mr. Smith is perfectly free to submit to us anything that he would suggest would indicate to us what the operation under this legislation would be. I

do not think the fact that it merely takes the form of material filed by the railway companies, that the Board of Transport Commissioners would preclude us from dealing with it.

Hon. Mr. REID: Has the evidence already been presented?

Mr. SMITH: May I answer that question?

The CHAIRMAN: Please.

Mr. SMITH: The two railways submitted a joint equalization plan with an alternative plan, and in September they called witnesses in support of that plan and gave brief evidence confirming the statements made therein. The Board then dealt with the matter and adjourned the hearing for the further consideration of the report until the eleventh or twelfth day of January next. In the meantime any persons interested are entitled to make representations to the Board. I thing this is helpful, Mr. Chairman, inasmuch as it at least indicates to the committee the approach of the railways to the problem.

The CHAIRMAN: Just before you go on, is the committee in agreement that we may properly consider this? The present position of it is that it is material submitted by the railways to the Board of Transport Commissioners.

Hon. Mr. PATERSON: I think we have to hear it.

The CHAIRMAN: I do not think we would be in any way disrespectful to the Board of Transport Commissioners if we were to merely consider a document which is now before them.

Hon. Mr. HAIG: Mr. Smith, you do not intend us to make any decision pro or con about the facts submitted by the railways; all you want to do is use that as an illustration of what equalization means to railways, or what they think it means.

Mr. SMITH: Or what may happen.

Hon. Mr. HAIG: Yes.

Mr. SMITH: Yes.

The CHAIRMAN: Is the committee agreeable that Mr. Smith Proceed?

Some Hon. SENATORS: Agreed.

The CHAIRMAN: You may continue, Mr. Smith.

Mr. SMITH: I do not want to get into details, for I am dealing with it in just a general way. In a large number of cases it would result in increasing the rates to approximately double what they are now, on the railways' showing. I do not accept the railways' showing, but I give that as just an indication of what might happen. I submit that if the Board, carrying out the national policy, does away with our peculiar situation based on this arbitrary system and on our large groupings, it is only common sense that there must be an increase in our rates. That is inevitable, and it is a matter of great concern to us. It would affect our economy seriously. As pointed out in the judgment, it would involve a disturbance of the entire rate fabric in territory. Statements have been made in the press and elsewhere that we would not be hurt if this change were made; but, as I interpret the bill, if a system of unification throughout Canada is put into effect it will inevitably result in an increase in the freight rates and a disturbance of our position which will react very detrimentally on our whole economy in the Maritime provinces.

That is my submission, made in all sincerity. In these circumstances I do suggest that the exceptions provided for in the bill are not at all adequate. The exception relating to the Maritime Freight Rates Act does not affect my argument to any great extent. As I see it, all that that means is that we shall preserve our 20 per cent differential as between the rates in the rest of Canada, but that would not in any way preserve our arbitrary or grouping system.

The CHAIRMAN: And as you pointed out a few minutes ago, the Maritime Freight Rates Act does not affect rates from the rest of Canada into the Maritimes at all?

Mr. SMITH: No. It covers only the preferred movements, so to speak. I do submit that the matter is a very serious one to us.

Now, what solution have I to offer? It is simple. I suggest that we be excluded from the equalization. We have no objection to the western provinces reaching their objective of rate equalization into central Canada, but we do not want that to apply to us, for it would have a very detrimental effect on our freight rates fabric and our entire economy. I do suggest, Mr. Chairman, that if we were excluded, the western provinces, which have for many years advocated equalization, would not be greatly affected. In fact, I am constrained to believe that they have no objection to our being excluded. I say that advisedly, but perhaps I may be taking in too much territory. And I say that if we were excluded the equalization plan could be carried into effect substantially as it is. I do ask this committee to consider most seriously the position in which the Maritime provinces would be placed by a system of uniform rates which would disturb our whole structure.

I have not attempted to draft any amendment, as I understood this was to be merely a general discussion. Therefore I have endeavoured to place the position of my clients in a general way. My endeavour also has been to give you a true picture, and if in my enthusiasm for my cause I have overstepped the bounds of propriety, I am sorry. I do believe sincerely that an equalization scheme of this kind applied to the Maritime provinces would be a most retrograde step. And after all, as you know, the Maritime provinces now are not an inconsiderable part of this Canada of ours—I was almost going to say this dominion—embracing as they do territory from St. John's, Newfoundland, to the Quebec border, and having a population of somewhere between a million and a half and two millions.

I trust and believe that the committee will consider my representations with the seriousness and—I say this with all respect—with the sympathy that I think we deserve.

Hon. Mr. REID: Mr. Smith, I listened carefully to your summing up, and particularly to your suggestion that the four eastern provinces be left out of the proposed provisions for equalization. Now I should like to ask you if you are opposed to section 332A of the bill. I will tell you why I ask that question. In my opinion—and I am expressing only my personal opinion—there is nothing that the railway companies would like better than to get the eastern provinces into a fight with the other provinces on this question of equalization. I seriously suggest to every member of this committee that there is a danger of our falling into a little trap that the railway companies would like us to fall into, by bringing about a situation which would cause the provinces to get into an agrument against one another.

Mr. SMITH: I tried to make my position clear. I said that we had no objection to the application of an equalization plan to western Canada and central Canada, where the great movement of traffic is. But I do submit that if the plan were brought into force in the territory which I represent—in Newfoundland, Prince Edward Island, Nova Scotia and New Brunswick—it would have a very serious effect on the economy of that territory. I can quite conceive that an equalization plan excluding the Maritimes could be worked out without any great difficulty.

Hon. Mr. BAIRD: In other words, we want our own deal.

Hon. Mr. REID: I think British Columbia is very favourable to any concession the Maritimes might get.

Mr. SMITH: That is very kind.

Hon. Mr. REID: I speak, I think, the voice of British Columbia when I say that we have never objected to anything of that kind. But British Columbia has fought without getting any concession whatever.

Mr. SMITH: The relations between the seven provinces that have taken part in some freight rate discussions in the last five years have not been what I consider discordant. In fact, I think they have been rather harmonious, and we from the Maritimes would be the last persons in the world to do anything that would tend to disrupt those happy relationships. On the other hand the first principle is that of self-preservation, and it is therefore of the utmost concern to us if these equalization plans, which may be of assistance to the western provinces, disturb our freight structure. But, as I have already said, Senator, I do not concede that our exception from the provisions of the Act would have the effect of defeating the aim of the western provinces.

Hon. Mr. HAIG: I should like to ask a question, Mr. Chairman. If equalization is advocated by the western provinces, it must be done with the idea of unloading some of the costs of freight on some other part of Canada.

Mr. SMITH: Yes, sir.

Hon. Mr. HAIG: Will you suggest to me where that freight cost can be unloaded?

Mr. SMITH: It could be unloaded in Central Canada.

Hon. Mr. HAIG: But it can't be unloaded there because the water competition shuts them out.

Mr. SMITH: There is a question of water and truck competition, but a lot of figures have been given as to the extent of competition. I think insofar as the C.P.R.'s evidence is concerned, competitive rates constitute about 10 per cent of the revenue. There is a large field in Central Canada.

Hon. Mr. REID: I should like to state the question a little differently than did Senator Haig. I do not think he puts it in its true light. My question would be: Is it not so that the loss on the railways in Ontario and Quebec is going to be made up in the Maritimes and British Columbia? A lot depends on the way you put it.

Mr. SMITH: That is a good lead, Mr. Senator. We have for years contended that by reason of the keen competition in the central area where the large movement in Canada today is, that the benefits we obtain from the Maritime Freight Rates Act have been whittled away so that they are now practically non-existent. Motor competition in the Maritime provinces is comparatively small, compared with that of Central Canada. If I may use an inelegant phrase, this has been our beef for years. Perhaps I have answered your question.

Hon. Mr. KINLEY: Mr. Chairman, I should like to ask Mr. Smith if he would comment on what I shall now read. On pages 124 and 125 of the Royal Commission on Transportation there is a section that deals with the attitude of the railways. Paragraph 5 under that general heading reads:

> "Certain difficulties arise in an equalization program:
>
> (a) The Maritime Freight Rates Act will require amendment;"

I think that coincides with what you have said, Mr. Chairman.

> "(b) Unless the so-called Crowsnest Pass Grain Rates are allowed to find their proper level equalization will not be true equalization;"

Mr. SMITH: Of course that is quite right.

Hon. Mr. KINLEY: And subparagraph (c) reads:

> "The assumed mileages between Fort William and Winnipeg and between Vancouver and Glacier, B.C., must be eliminated from the rate structure."

Those are three rather important points.

Mr. SMITH: May I answer that question, Mr. Chairman? Dealing first with the question of the Crowsnest Pass Rates: Our attitude before the Royal Commission was that we did not raise any question about that subject.

Hon. Mr. KINLEY: But there is a difference, is there not?

Mr. SMITH: The difference between the operation of the Maritime Freight Rates Act and the Crowsnest Pass Rates is that the C.P.R., which is the largest hauler of grain, complains that it is carrying it at a huge loss. There is no reimbursement for the railway, insofar as that is concerned, such as is found in the Maritime Freight Rates Act. There can be no doubt, if you except the Crowsnest Pass arrangement, that there is no true equalization of freight rates in Canada. There is only equalization as to the residue. I do not know how much that represents in dollars, but it is a very substantial amount.

Hon. Mr. KINLEY: But is there not also this difference, that the Maritime Freight Rates Act is based upon a percentage, and the barometer rises and falls. . . ?

Mr. SMITH: Yes, we go up.

Hon. Mr. KINLEY: But the Crowsnest Pass Rates are based on statutory rates.

Mr. SMITH: The Crowsnest Pass Rates are based on statutory rates, passed in 1897.

Hon. Mr. REID: To keep the record straight, what Senator Kinley has just quoted is the submission by the C.P.R.; it is not a remark or a statement by the Commission on freight rates, and the C.N.R. did not say it.

Mr. SMITH: That is quite right.

Hon. Mr. REID: Another point should be put on the record; they have never proved or disproved the statement that grain rates are profitable.

Mr. SMITH: That is quite right.

Hon. Mr. REID: Then let us keep the record straight.

Mr. SMITH: Now, I do not wish to get into any argument about this matter. I am not dealing in incrimination against any province; I am just trying to make my submissions.

Hon. Mr. DAVIS: But it should also be on the record that according to the C.P.R.'s own figures the Prairie provinces contribute three-quarters of the company's profits in return for the hauling of one-third of the total traffic.

Mr. SMITH: I do not know what the details are. It is true that the C.P.R. has a great deal of traffic in the west and the C.N.R. has considerable traffic in the east.

Hon. Mr. DAVIS: I am not saying that. I am merely injecting the remark that according to the C.P.R.'s own figures it extracts from the Prairie provinces three-quarters of its profits for the hauling of one-third of its total traffic.

Mr. SMITH: Perhaps you are right, Senator. Perhaps all I should say on that point is that the Crowsnest Pass Rates were considered before the Commission.

Hon. Mr. DAVIS: These figures include the Crowsnest Pass Rates.

Mr. SMITH: Yes. And the Commission decided to do nothing about them.

Hon. Mr. KINLEY: I do not think, Mr. Chairman, that there is any incrimination on the part of any one here, but it is illuminating if we can show each other what benefits are to be gained. On the question of assumed mileage.

Mr. SMITH: The assumed mileage has been provided for.

Hon. Mr. KINLEY: Yes, $7 million.

Hon. Mr. DAVIS: Not between Fort William and Winnipeg. That is between Fort William and Sudbury.

Hon. Mr. KINLEY: There is nothing arises out of—

Mr. SMITH: So much of this will go out the window.

Hon. Mr. KINLEY: But this is a new thing.

Mr. SMITH: It is a new thing, and any traffic we send west would benefit by it.

Hon. Mr. REID: Do you find that the rates eastward differ as compared with the westward rates? We in British Columbia have found that the rates eastward and westward on the same commodity differ greatly.

Mr. SMITH: Perhaps Mr. Matheson would like to answer that question.

Hon. Mr. REID: I am speaking of the same commodity, for instance, canned goods manufactured in Ontario or Quebec.

Mr. MATHESON: Mr. Chairman, it will be found that there are different rates going in different directions, depending on the traffic and other conditions and circumstances.

Hon. Mr. REID: Thereby giving the manufacturer in a certain area an added advantage over another province?

Mr. MATHESON: Yes; and down east where we find that situation we have it equalized.

The CHAIRMAN: There is one question I wanted to ask Mr. Smith in connection with his suggestion to exclude the Maritimes from this bill. I noticed, in reading the evidence given before the committee in the other place by the C.P.R. on Wednesday, November 7th last, which evidence you no doubt have, that the counsel for the C.P.R. suggested some changes to section 332A which he seemed to think would deal with the particular point that you have in mind. The same point that you raised came up in discussion in the Commons committee.

Mr. SMITH: Which page are you referring to?

The CHAIRMAN: It is on page 85 of the House of Commons Committee's printed report.

Hon. Mr. KINLEY: In Appendix A.

The CHAIRMAN: I just wondered whether you had considered whether those amendments suggested by the counsel for the C.P.R. would meet your problems.

Mr. SMITH: We did look at them, Mr. Chairman, but, while they are a step in the right direction, I do not think they go far enough. I think that is the answer in a nutshell. As I said, I have not attempted to draft an amendment, but I have endeavoured to indicate the nature of the protection we desire.

The CHAIRMAN: In this particular case you find yourself in the unusual position of agreeing with the Canadian Pacific Railway but wanting to go further: is that right?

Mr. SMITH: Yes. Sometimes you have to change your bed-fellows.

Hon. Mr. KINLEY: Counsel in his submission says it would have to be amended to preserve it.

Mr. SMITH: I do not know what the position of the Canadian Pacific in that respect is. They may have changed ground. If the Railway Act was amended so as to put in the declaration policy, you would then have in the Railway Act a provision relating to equalization. If under subsection (2) of section 3 of the Maritime Freight Rates Act changes can be made by substituting tariffs in accordance with the provisions of the Railway Act, it might be done pursuant to the provisions of the equalization national policy. So it might do away, if the

situation arises—which I hope it never will—with the necessity of amending the Maritime Freight Rates Act itself, and all you would have to do would be to have an amendment of the Railway Act, which would cover the situation.

Hon. Mr. REID: It would be presumptuous on my part to advise a witness who is an able counsel, but if anything he is proposing is in agreement with the proposals of the Canadian Pacific Railway, he had better give it another look!

Hon. Mr. HAIG: When this bill goes to our committee without any proposed amendment by Mr. Smith, I am persuaded, though I may be entirely wrong, that the Government will press for their bill. If they do, and supposing I put forward Mr. Smith's view, they will say, "Haig, what amendment do you suggest?" I think we are bound to be asked that question; and you put us in a pretty weak position, Mr. Smith, if we agree with your facts and agree with your request. I personally would want to know what amendment to put in.

Mr. SMITH: Well, I am in your hands, Mr. Chairman.

Hon. Mr. HAIG: I do not say you should do this—

Mr. SMITH: I was not prepared to do that today.

Hon. Mr. HAIG: I do not ask you to do it today.

Hon. Mr. HAWKINS: But you are prepared to do it?

Mr. SMITH: Oh, I am prepared to do it and would be delighted to do it,—for what it is worth.

Hon. Mr. HAIG: I think as a matter of tactics regarding the committee, you and your assistant, Mr. Matheson, are very much more able to draw such an amendment. Of course, if the Government will accept your suggestion that the four Maritime Provinces be excepted from the Act, that ends it. But supposing they refuse to do that?

Hon. Mr. BAIRD: Which they will, you may be sure.

Hon. Mr. HAIG: I am only supposing, but if they do that, in order to help you out I might want to put in an amendment. I think you could draw it much better than I could.

Mr. SMITH: Well, that is very kind of you, sir, and I will endeavour to submit an amendment in due course.

Hon. Mr. HAIG: There is no hurry about it.

Hon. Mr. KINLEY: Suppose you find out the attitude of the committee in the other house, you could draft it then.

Mr. SMITH: Of course I am only a "country boy" up here. I don't know.

The CHAIRMAN: I was just going to remark that perhaps the only thing we can do is to wait until the other house has dealt with the matter; and I think Mr. Smith should be ready, if the bill comes to us in the form in which it is at present, to suggest an amendment to us when it comes here.

Hon. Mr. HAIG: If Mr. Smith is going to stay here it will be all right, but sometimes these lawyers run away on us.

Mr. SMITH: We have to come back very shortly, because we have a hearing before the Board on the 26th. I have not decided yet whether I will go away or stay. In any event we will comply with the suggestion.

Hon. Mr. HAIG: Don't misunderstand my attitude. I am in a better position to meet a defence by the Government that they do not want to take the Maritimes out of it, if I am able to suggest to them an amendment that while maybe not going as far as you would like to go, will go quite a distance, provided you can give me the amendment you are working on.

Mr. SMITH: It is very kind you. I cannot ask any more.

The CHAIRMAN: Are there any other questions that any members of the committee wish to direct to Mr. Smith or to Mr. Matheson?

Hon. Mr. HAIG: I have a motion to make:

> I move that authority be granted for the printing of 300 copies in English and 100 copies in French of the Committee's day-to-day proceedings, and that Rule 100 be suspended in relation to the said printing.

The CHAIRMAN: This motion is before the committee. All in favour? Contrary-minded? Carried.

Do you want to make any further submission at this time, Mr. Matheson?

Mr. MATHESON: No thinks. Mr. Smith has covered it quite fully.

Hon. Mr. HAIG: We have enjoyed your presentation.

The CHAIRMAN: Will we meet again at the call of the Chair?

Hon. Mr. HAIG: At the call of the Chair.

Agreed.

The meeting adjourned.

1951

THE SENATE OF CANADA

PROCEEDINGS

OF THE

STANDING COMMITTEE

ON

Transport and Communications

On the Report of the Royal Commission on Transportation.

No. 2

TUESDAY, NOVEMBER 20, 1951

The Honourable Adrian K. Hugessen, Chairman

WITNESS:

Mr. W. P. Fillmore, K.C., and Mr. V. M. Stechishin, representing the city of Winnipeg and the Winnipeg Chamber of Commerce.

OTTAWA
EDMOND CLOUTIER, C.M.G., O.A., D.S.P.
PRINTER TO THE KING'S MOST EXCELLENT MAJESTY
CONTROLLER OF STATIONERY
1951

STANDING COMMITTEE

ON

TRANSPORT AND COMMUNICATIONS

The Honourable ADRIAN K. HUGESSEN, *Chairman*

The Honourable Senators:

Aseltine
Baird
Campbell
Davis
Dessureault
Gershaw
Grant
*Haig
Hawkins
Hayden
Horner
Hugessen
Kinley
McLean
Nicol
Paterson
Raymond
*Robertson
Reid

*Ex officio member.

ORDER OF REFERENCE

EXTRACT from the *Minutes of the Proceedings* of the Senate, Friday, 19th October, 1951.

Ordered, That the Standing Committee on Transport and Communications be authorized to examine and report upon the Report of the Royal Commission on Transportation and especially upon the proposal to equalize freight rates and the effect of such proposal on specific areas of Canada.

That the said Committee be empowered to send for persons, papers and records.

That the Committee be authorized to sit during adjournments of the Senate.

ATTEST.

L. C. MOYER,
Clerk of the Senate.

96048—1½

MINUTES OF PROCEEDINGS

TUESDAY, November 20, 1951.

Pursuant to adjournment and notice the Standing Committee on Transport and Communications met this day at 11 a.m.

Present: The Honourable Senators:—Hugessen—Chairman. Baird, Campbell, Davis, Gershaw, Grant, Haig, Horner, Kinley, Nicol, Paterson, Raymond and Reid.—13.

In attendance: Mr. J. F. MacNeill, K.C., Law Clerk and Parliamentary Counsel. The official reporters of the Senate.

Pursuant to the Order of Reference of October 19, 1951, the Committee resumed consideration of the report of the Royal Commission on Transportation.

Mr. W. P. Fillmore, K.C., and Mr. V. M. Stechishin, of the city of Winnipeg, Manitoba, were heard with respect to the views of the city of Winnipeg and the Winnipeg Chamber of Commerce.

At 1 p.m. the Committee adjourned to the call of the Chairman.

Attest.

JAMES D. MACDONALD,
Clerk of the Committee.

MINUTES OF EVIDENCE

THE SENATE

OTTAWA, Tuesday, November 20, 1951.

The Standing Committee on Transportation and Communications, which was authorized to examine the report of the Royal Commission on Transportation, met this day at 11 a.m.

Hon. Mr. HUGESSEN in the Chair.

The CHAIRMAN: Honourable senators, we now have a quorum and it is 11 o'clock. We have here two gentlemen who have asked to be heard before the committee with respect to the proposed railway legislation. They represent the city of Winnipeg and the Winnipeg Chamber of Commerce. They are Mr. W. P. Fillmore, K.C. and Mr. V. M. Stechishin. Would the committee approve of my asking whichever of these two gentlemen wishes to address us first to make his representations now? Mr. Fillmore, would you care to come forward?

Hon. Mr. HAIG: Mr. Chairman, may I make one observation? Mr. Fillmore is a distinguished lawyer from my city and is always well prepared to discuss his subject, but I should like first to point out to him, as I did to the well-known lawyer we had from Halifax the other day, that he should assume that we know nothing about this question and require as much help as we can get.

Mr. W. P. FILLMORE, K.C.: Mr. Senator, I decline to assume that you are not familiar with the subject.

Mr. Chairman and Gentlemen, we appreciate the privilege of being allowed to appear before this committee. I wish to read the brief which we have prepared; and Mr. Stechishin, who has been appointed to assist me, will be able to answer any questions as to freight rates and tariffs. I will be pleased to answer any questions which the committee may wish to put to me after or during the reading of this brief.

While we appreciate the effort parliament is making to implement the recommendations of the Royal Commission, a careful study of the effect that Bill 12 may have on the main industrial areas of Manitoba gives us great concern. Even under the present freight rate structure Manitoba has not developed, either in industry or population, to the same degree as the central or other western provinces. Distributors and manufacturers in Manitoba have not yet recovered from the disastrous effects occasioned by the opening of the Panama Canal nearly forty years ago.

It is, of course, desirable that this freight rate structure should be simplified and made uniform in so far as this can be done without disturbing trade balances between different districts, and without throwing an increased burden of freight rates on one district at the expense of another. We have not asked for, nor have we received, any parliamentary assistance. Under the circumstances, we request this Committee to consider very carefully whether it is in the national interest to give, by legislation, further assistance at our expense to areas which even now are making comparatively greater progress in industrial development.

We assume that it is not the intention of Parliament, through the provisions of the proposed Bill 12, to disturb the competitive relationships which

now exist between different parts of Canada or between different provinces or areas. It was, in fact, stated by the Honourable Minister of Transport, on the floor of the House, on the 26th of October, that "it need not be anticipated that the proposed amendments will result in a body of freight rates which will disrupt established industries and freight patterns". This is consistent with one of the conclusions and recommendations of the Royal Commission in the chapter entitled "Equalization", found at the bottom of page 125, and which reads as follows:

> The objective of equalization is something which can only be attained after considerable study by the Board and by the railways. Undoubtedly, many serious problems are involved, for example the effect that the proposals may have on railway revenues, on established industries and on trade and market patterns. All of these things are matters of the utmost importance. Having regard to the large number of rate changes which will be involved, the problem is one peculiarly for the Board to resolve finally after the General Freight Rate Investigation and after all parties who may be affected by the proposals have had an opportunity of being heard.

I might say, as will be pointed out later, that that is the declared policy as stated both by the Minister and by the Royal Commission, not to disturb established competitive relationships between different areas. What we are worried about is that this bill, as now drafted, may have that effect. It may tie the hands of the Board of Transport Commissioners. That is the argument which I intend to develop.

Freight rates occupy a peculiar position in the decisions of a business community. In one sense they are a cost of doing business just as wage payments, rents, etc. are costs, but they differ from these other costs in that they are subject to change through the railway companies filing new tariffs and by decisions of the Board of Transport Commissioners, and they are not the result of the inter-action of market forces. Market conditions such as a rise and fall in prices apply equally all across the country, but new tariffs have a local and arbitrary, and sometimes not anticipated effect. May we respecfully suggest that this Bill be so worded as to enable the Board of Transport Commissioners to give effect to the recommendation of the Royal Commission which we have quoted. We want some assurance that established and prospective industries and investments will not be damaged or discouraged.

The great bulk of Canada's industry is concentrated in the Sudbury-Windsor-Montreal triangle; Toronto, of course, being about the centre of that triangle. We venture to say that no industry west of that triangle, with the exception of British Columbia, can compete eastward to any great degree. Whether we like it or not, that is a fundamental fact of Canadian economy. Because of this, the relationship between the rates to Winnipeg and to other Western Canadian centres is of utmost concern to this City's welfare. Winnipeg has a natural geographic advantage over other western cities, and this should be respected. We must even now absorb some freight on nearly all shipments we make to meet eastern competition because the through rate is lower than the sum of the rate to Winnipeg and the rate beyond.

At the request of the Board of Transport Commissioners the railways made an extensive study—consisting of some hundred pages or more—in which they attempted to frame uniform rates in accordance with the proposed section 332A. These proposals, if put into effect, are what indicate to us that if uniform rates are enforced in accordance with the suggestions contained in that study, the rates to Winnipeg will be higher and the rates to other points in Western

Canada will be lower. When we refer to a "study" we are referring to something prepared over a considerable period of time and at great pains by the railway companies, as a sort of proposed uniform rate scale. I now go on.

Hon. Mr. CAMPBELL: Mr. Chairman, may I ask Mr. Fillmore a question? I do not quite understand the point he is trying to make. Are you referring to the uniform class rates that are now proposed, Mr. Fillmore?

Mr. FILLMORE: Yes. This study is a study—

Hon. Mr. CAMPBELL: I do not wish to interrupt the presentation of the brief at this stage. I could ask the question later.

The CHAIRMAN: I was going to ask the committee which method they would prefer, and Mr. Fillmore which method he would prefer: would he prefer to complete his brief, and then have questions on all parts of it, or would he like to have questions from time to time?

Mr. FILLMORE: I would be glad to have questions as we go on, as that would help the committee to understand the brief.

Hon. Mr. CAMPBELL: The reason I asked is because I would like to understand the explanation of the brief you are trying to make.

Mr. FILLMORE: This study presents a uniform scale of class rates across Canada, I think we could say, in attempted compliance with the suggestions made by the Board of Transport Commissioners which are now embodied in section 332A.

The CHAIRMAN: By the Railway Commission? Not the Board of Transport Commissioners.

Mr. FILLMORE: The Board of Transport Commissioners requested this from the railways, but the Bill No. 12 is almost verbatim the recommendations of the Royal Commission contained in the chapter on equalization. So that 332A,—reading Bill 12—states:

> It is hereby declared to be the national freight rates policy that, subject to the exceptions specified in subsection four, every railway company shall, so far as is reasonably possible, in respect of all freight traffic of the same description, and carried on or upon the like kind of cars or conveyances, passing over all lines or routes of the company in Canada, charge tolls to all persons at the same rate, whether by weight, mileage or otherwise.

Then, subsection (2):

> The Board may, with a view to implementing the national freight rates policy, require any railway company
>
> (*a*) to establish a uniform scale of mileage class rates applicable on its system in Canada, such rates to be expressed in blocks or groups, the blocks or groups to include relatively greater distances for the longer than for the shorter hauls;

Then, (*b*) is to establish the same sort of a uniform scale for commodity rates.

The study prepared by the railway purports to be an attempted compliance with subsection (2) (*a*), that is to work out a uniform scale of mileage class rates across Canada.

Hon. Mr. CAMPBELL: Would that eliminate the arbitraries that now exist?

Mr. FILLMORE: Well, the study is in two parts. First there is the uniform class rates without regard to the arbitraries, and second, the suggestion is, retaining those basic arbitraries in the Central Provinces and working from

that and with that, they have got an alternative, but that is not exactly in accordance with what is directed by Parliament in the proposed bill.

Hon. Mr. CAMPBELL: That was what I was asking, Mr. Fillmore. Under (*a*) it seems to me that that would eliminate the arbitraries that now exist in the Maritimes and in the Central Provinces.

Mr. FILLMORE: Well, the Maritimes are concerned over that. They are in a little different position with their Maritime Freight Rates Act. But on the face of it, this (*a*) would eliminate what we call the basic arbitraries in the central areas.

Hon. Mr. CAMPBELL: In other words, there would be a uniform class rate established from east to west?

Mr. FILLMORE: Yes.

Hon. Mr. CAMPBELL: And the distances, I suppose, would be in smaller blocks with a mileage increase as you go west?

Mr. FILLMORE: Yes. The important thing about that is the rate of taper. That is one principle of rate-making; they call it the tapering of rates. Just briefly, they charge more for the first fifty miles than they do for the last fifty on the rates. The rates diminish in the proportion to the distance.

The CHAIRMAN: The blocks become longer as you go further on?

Mr. FILLMORE: Right.

Hon. Mr. HORNER: We have had that, of course, for many years.

Mr. FILLMORE: Yes. That is a well known principle of rate-making.

Hon. Mr. HORNER: "Even under the present freight rate structure Manitoba has not developed, either in industry or population, to the same degree as the central or other western provinces." Surely there should be an exception as far as Saskatchewan is concerned. Saskatchewan has certainly been at a disadvantage as far as Winnipeg is concerned.

Mr. FILLMORE: Well, Mr. Senator, I can give you the references to those statistics in the Canada Year Book.

Hon. Mr. HORNER: Of course you are thinking of when Manitoba was the chief distributing point for the whole of Western Canada, before the further west developed. It was a natural consequence that they would move closer to their distributing points. But as far as Saskatchewan is concerned we are vitally interested in this, because Manitoba will have an advantage if the St. Lawrence waterway goes through, and we in Saskatchewan are wedged in. Naturally we are interested in the freight rates standardization.

Mr. FILLMORE: That is right. We have some statistics here, and perhaps later on I will give you the references.

Hon. Mr. REID: May I ask one question in regard to section 332A which you have just dealt with? Is not that section at variance with your contention on page 2, where you state: "We assume that it is not the intention of Parliament, through the provisions of the proposed Bill 12, to disturb the competitive relationships..." I take it that section 332A is doing exactly that, because we in British Columbia have long contended that the different competitive rates in the various provinces had reacted against us.

Mr. FILLMORE: But my point is that if the bill is passed in its present form the Board would not be able to preserve present competitive relationships. That is to say, if the rates are fixed in accordance with the proposals by the railways we will find that the rates to Winnipeg are higher and the rates from Eastern Canada to the far West are lower, therefore making it necessary for

the industry in Winnipeg to absorb a still greater part of the freight rates in order to compete on even terms. That is our apprehension, and the argument which I am going to develop is that this legislation as now drafted puts the Board of Transport Commissioners in a strait-jacket; it gives them definite, specific directions from which they cannot depart, and they cannot take into account the disturbance of competitive relationships, and the effect it may have on industry. Perhaps I should continue now?

Hon. Mr. HAIG: Mr. Chairman, I would like to ask Mr. Fillmore a question. I quite appreciate his arguments and all that. Is there not some relationship in this that I do not understand? For instance, if the rate to Winnipeg is, say, $1.60 a hundred pounds from Montreal, and the rate to some point further west is so much, is there not an additional clause that over-rides all that, so that the charge for any rate will not be any more than the standard rate plus one-third?

Mr. FILLMORE: We shall come to that later, Senator Haig. That is in 332B and it deals with transcontinental rates.

Hon. Mr. HAIG: That is what I mean.

Mr. FILLMORE: We realize that the so-called "study" prepared by the railways at the request of the Board of Transport Commissioners is not final nor official, and may be only a mere suggestion. However, this study represents a great and serious effort by practical rate experts. If this study is any indication of what may happen through the enforcement of rigid uniformity, we can see that rates to Manitoba from the East may be raised and that rates from the East to points west of Manitoba may be lowered. Such an event would prejudice our competitive position as against the central provinces and would tend to further concentration of industry therein.

It should not be "the central provinces" but "the industrial areas". I might say that perhaps our brief does not emphasize that point a great deal or as much as it should. We are accused of being selfish. It is said we will oppose uniformity because we do not want to lose business for any of the industries in Winnipeg. It may be said that we are taking perhaps a selfish stand which may be in conflict with the good of the whole country, but there is something there I think should be given greater emphasis. I do not feel that parliament should be in favour of anything which would tend to a further concentration of industry in the central areas. Many members of parliament have stated that it is undesirable to have too much of the country's industries in one area. I am not going to attempt to debate whether that is good or bad, but I am assuming that that is not a desirable situation.

Our view is that proposed Section 332A in its present form is not adequate to ensure that established industries and freight patterns will not be disrupted. I have read part of 332A. It is quoted here. You will note first there is a declaration of policy. It says:

> It is hereby declared to be the national freight rates policy that, subject to the exceptions specified in subsection four, every railway company shall, so far as is reasonably possible. . ."

I do not think that is a very desirable expression to find in a statute because there might be five members on the Board of Transport Commissioners, and each one would have a different view as to what may be reasonably possible. That is a most vague and undesirable expression, I think, to find in a statute of such importance as this. Then I have not quoted subsection 2, which says: "The Board may. . ."—and I want to emphasize the word "may"—"The Board may, with a view to implementing the national freight rate policy, require any railway company to establish a uniform scale of mileage class rates. . ." and so forth. Then we call attention to subsection 4, which reads:

Subsections one, two and three are subject to the proviso to subsection five of section three hundred and twenty-five of this Act. . ."

That preserves the Crowsnest Pass Agreement. It is referred to in the proviso to section 325. It maintains the so-called Crowsnest Pass Agreement and the statute passed, I think, in 1925 whereby the Crowsnest Pass rates were fixed and established presumably for all time. Then it goes on:

". . .and to the Maritime Freight Rates Act, and do not apply in respect of

(*a*) joint international rates between points in Canada and points in the United States of America;

(*b*) rates on export and import traffic through Canadian ports, where in practice such rates bear a fixed and long-standing relationship with rates on similar traffic through ports in the United States of America;

(*c*) competitive rates;

(*d*) agreed charges authorized by the Board under Part V of The Transport Act, 1938;

(*e*) rates over the White Pass and Yukon route; and

(*f*) any other case where the Board considers that an exception should be made from the operation of this section.

Sub-section (*f*) must refer to particular cases and rates, and it cannot be construed to apply to all rates or to detract from the generality of the declared freight rate policy. For example, Sub-section (*f*) might apply to a rate on a commodity which is necessary to enable that commodity to be moved by rail. It does not refer to competitive rates because they are already excepted. So my thought here is that subsection (*f*) of 4 can only apply to particular instances or to some particular case. It could not mean that the Board may to any great extent or in any general way ignore the declared policy or the manner in which the railways are directed to bring it into effect.

The CHAIRMAN: In other words, your view is that that would not permit the Board, for instance, to exempt the whole of the Maritime Provinces from the general policy.

Mr. FILLMORE: Oh, no. I submit there could not be any general exception of either territory or of a class of people or shippers.

Section 332A, after declaring the freight rate policy, states that the Board "may" with a view of implementing and so forth. It is our view that the use of the word "may" here is directory and mandatory and not merely permissive.

Hon. Mr. HAIG: We discussed that for an hour the other day with representatives from Nova Scotia, and that is why the Chairman and I are smiling. We agree with you.

Mr. FILLMORE: I shall give you some authority for that. I do not know whether they were quoted the other day. If "may" is only permissive then the Board would be in a position to disregard the declared policy in whole or in part.

As Section 332A does not direct the Board to preserve the competitive pattern there is great danger that the Courts would hold that it is the duty of the Board to carry out the National Freight Rates Policy, without regard to the effect it would have on competing industries which are located in different areas or districts. In fact, as the proposed Act now stands, the Board would have no right to take such factors into consideration and if it did an aggrieved party could appeal to the Supreme Court of Canada and ask for a direction that the Board should perform its duty in accordance with the terms of the Act. In a case reported in 1950, Supreme Court Reports, page 25, under the

heading "Canadian Pacific Railway and Province of Alberta and others", there was an appeal by the Railway Company from the Judgment of the Board of Transport Commissioners.

In that case the Canadian Pacific Railway Company applied for an increase in freight rates, and the Board of Transport Commissioners granted an interim increase but said it would postpone final consideration until the Royal Commission on Transportation made its report and until further statistics were available and maybe until the Act was amended. But the Supreme Court of Canada said you cannot postpone decision in a case on any such grounds; you are a statutory body, and have been given certain powers and duties, and if an application is made to you, you must consider it in accordance with the Act. As I point out in the brief, the Court's decision is summarized in the head note, as follows:

> The Board of Transport Commissioners, being a court of record, cannot postpone determination of an application for an increase in freight rates by reason of matters entirely irrelevant to the proper discharge of its duty to decide such question. To do so would amount, in effect, to a declining of jurisdiction.

I want to make the point that if a public body is directed to do something it must do it, and in carrying out that duty it can only act in accordance with the terms of the statute. So the Board of Transport Commissioners would be bound to put into effect the rates which it is directed to put into effect. It could not make an exception in favour of established industries in any particular area; it could not take into account any of the ordinary rate making factors, as, for example, density of traffic.

I will read a brief extract from the Supreme Court's decision, in which the rules of law are set out. The judgment refers to a certain case in the House of Lords and quotes Lord Penzance as follows: "In all these instances the Courts decided that the power conferred was one which was intended by the legislature to be exercised; and that although the statute in terms had only conferred a power, the circumstances were such as to create a duty. In other words, the conclusion arrived at by the Courts in these cases was this—that regard being had to the subject-matter—to the position and character of the person empowered—to the general objects of the statute—and, above all, to the position and rights of the person, or class of persons, for whose benefit the power was conferred, the exercise of any discretion by the person empowered could not have been intended."

The Supreme Court judgment then makes this comment:

> It was the view of all the members of the House—that is the House of Lords—"in that case that while words which are permissive do not of themselves do more than confer a faculty or power, nevertheless, to quote The Lord Chancellor, at page 222:
>
> > "...there may be something in the nature of the thing empowered to be done, something in the object for which it is to be done, something in the conditions under which it is to be done, something in the title of the person or persons for whose benefit the power is to be exercised which may couple the power with a duty, and make it the duty of the person in whom the power is reposed, to exercise that power when called upon to do so."

The Supreme Court judgment then goes on:

> "In our opinion to postpone passing upon a matter by reason of matters which are entirely irrelevant to the proper discharge of the duty placed upon the Board under the statute to decide these matters

for itself amounts in effect to a refusal to function. It is no answer to say, as the respondents did, that it was always open to the railway to make a further application. In the face of the present judgment no one can doubt what would be the answer to such an application."

I might say here for those who are members of the legal profession that there is a very fine article on that same subject in the May number of the *Canadian Bar Review*, entitled "The Growing Ambit of the Common Law." The author refers to the cases in England in which the courts have recently been, as it were, supervising the works and decisions of administrative bodies, semi-judical bodies. It is pointed out that whenever a commission or board or other administrative body misconstrues or misconceives its powers or duties under a statute, anyone interested can apply to the court, and the court may say to the administrative body that it has misconceived its duties, that it has gone too far or, as the case may be, not far enough, and it may direct the administrative body to carry out its statutory duties. Now it seems to me that what we have here in this bill is a situation so rigid that the Board will have to put into effect this uniform scale without regard to any other circumstances; and if the Board failed to do so, any interested party could apply to the Supreme Court of Canada and get a direction.

Hon. Mr. CAMPBELL: Your point is that no discretion is left in the Board of Transport Commissioners, and that that in itself might defeat the object of the bill?

Mr. FILLMORE: Yes, senator. It has been pointed out that the word "may" is there, but I cannot see that "may" can be construed any differently from "shall". The Board has to carry out the policy laid down here, and it is stated that in order to carry it out they may do so and so, subject to certain exceptions, which are set out in subsection 4. So the bill could hardly be construed to mean that there were any other important exceptions.

Hon. Mr. CAMPBELL: Is not your contention strengthened considerably by the language in the new section 329, as set out in section 7 of the bill. The new section 329 says this:

"Class rate tariffs

(*a*) shall specify class rates on a mileage basis for all distances covered by the company's railway, and such distances shall be expressed in blocks or groups and the blocks or groups shall include relatively greater distances for the longer than for the shorter hauls,..."

It seems to me that on an interpretation of the Act as a whole that section bears out your contention that "may" in subsection 2 of section 332A must be interpreted as "shall".

Mr. FILLMORE: I will now continue reading from my brief:

In this connection we also refer to the case of the Great Western Railway Company v. Chamber of Shipping of the United Kingdom, 1937 L. R. 2 K.B. Div. p. 30; the head note of which reads as follows:

"When a railway company seeks the consent of the Railway Rates Tribunal under section 37, subsection 1, of the Railways Act, 1921, to the grant of exceptional rates for certain traffic which are more than 40 per cent below the standard rates chargeable, the Tribunal is only concerned (1) whether the effect of the exceptional rates proposed will be to affect prejudicially the revenue of the company, and (2) whether persons using or desiring to use the railway will be prejudiced.

> The Tribunal is not therefore concerned to inquire whether the exceptional rate will prejudice coastal carriers by placing them at a disadvantage and will therefore be undesirable in the national interest."

In other words, the statute empowered the Tribunal to grant an exceptional rate under certain circumstances, and the courts said that when an application is made for the granting of an exceptional rate the Tribunal can only have regard to what is mentioned in the statute, that it cannot refuse the application for some extraneous reason.

Hon. Mr. REID: May I ask a question there? Does the Rail Rates Tribunal in Great Britain hold the same position in that country as the Board of Transport Commissioners holds in Canada? My reason for asking is that when the Board of Transport Commissioners was first set up, its function was to protect the public; latterly it is protecting the railways. I am wondering whether the two bodies hold the same status in each country.

Mr. FILLMORE: There is a passage on that subject in 1937-2-K.B., which I should like to read. If Mr. Setchishin will get the text from the library, I shall be glad to read it.

We now go into another branch of the argument. Section 314 to section 325 of the Railway Act give powers to the Board of Transport Commissioners to fix rates, alter rates, disallow rates—the general rate-making and controlling sections—which have been the subject of a great number of decisions for, I think, almost sixty years or more. The question now arises as to what is going to be the impact of throwing this new uniformity principle into the middle of those sections. Section 314 is, for example, one of the most important ones, and is headed "Equality as to Tolls and Facilities". It reads as follows:

> All tolls shall always under substantially similar circumstances and conditions in respect of all traffic of the same description, and carried in or upon the like kind of cars or conveyances, passing over the same line or route, be charged equally to all persons and at the same rate, whether by weight, mileage or otherwise.

That looks like a fair proposition.

Hon. Mr. REID: We in British Columbia thought it was fair and thought that it meant what it said until it went before the Board.

Mr. FILLMORE: I do not wish to read the whole section, but I will include subsection 4:

> No toll shall be charged which unjustly discriminates between different localities.

It is to be noted that the words "under substantially similar circumstances and conditions" which appear in Section 314 are omitted from Sub-section (1) of 332A, which is a further indication that the policy is to be enforced without regard to extraneous matters or to considerations which formerly prevailed. Those very important words are eliminated or are omitted from 332A: It does not matter what the circumstances or conditions are.

Hon. Mr. REID: I was about to ask you how could that be detrimental. British Columbia has spent possibly a quarter of a million dollars basing its argument on this particular clause, especially on grain rates. I appeared before the Board, and I thought I was safe under this condition. But it is worthy of note that a train may contain two cars, one tagged for export and the other for consumption in British Columbia; of these two cars, the export car goes at half the cost of the car for domestic consumption. I am glad you are dealing with this question, as it is a most important one. Of course, I speak as layman, but the Board thinks differently.

Mr. FILLMORE: I cannot answer for the Board, but I assume that the distinction was made because the contents of one car is for export while the other is for local use.

Han. Mr. REID: But that is not mentioned in the Act.

Mr. FILLMORE: I now have the passage which, in view of the question asked about the Road and Rail Traffic Act in Great Britain, I should like to read. At page 37 of 2, King's Bench, 1937, I find this somewhat technical explanation of the powers and duties of the Board:

> On and after the appointed day an amalgamated company or a railway company to which a schedule of standard charges has been applied shall be at liberty to grant new exceptional rates in respect of the carriage of any merchandise, which rates shall within fourteen days, or such longer period as the Minister may allow, be reported to the Minister; so, however, that a new exceptional rate so granted shall not, without the consent of the rates tribunal, be ..... more than forty per cent below the standard rate chargeable.....
>
> In order to understand that it is necessary to turn very shortly to the general scope of the Act in respect of fixing charges by railway companies for the carriage of goods. The scheme of the Act is that at the outset there should be prepared by the companies and settled by the Tribunal a schedule of standard charges, which charges are to be applied by the company except in so far as what are called exceptional rates are granted and fixed. The adjustment of charges is defined by another section of the Act, that is s. 58. They are to be fixed, in the first instance, with reference to certain considerations which are set out in s. 58 at some length. The first matter to be considered is that the charges shall "so far as practicable yield, with efficient and economical working and management, an annual net revenue," referred to as the "standard revenue," which is to be arrived at by consideration of their earnings before the Act came into force. That, however, is not the only matter which is to be taken into account in fixing the standard charges. These are to be fixed partly with a view to encouraging economies in working and management expenses, and the Tribunal are also to have regard to what will be most likely to ensure the maximum development and extension in the public interest of the carriage by railway of merchandise and of passengers and their luggage. . .

That is the general purpose of the Rail Rates Tribunal is England, as I take it.

Hon. Mr. HORNER: You say their functions are much the same as those of our Board of Transport Commissioners?

Mr. FILLMORE: Yes, sir, I think so.

I was commenting on section 314, and on the fact that the words "under substantially similar circumstances" are not to be found in the proposed 332A. Then I read at page 8:

> The Board must give effect to the declared policy. By necessary implication, no exceptions are permitted other than those specified in subsection (4). Therefore, the Board must require the railways to establish a uniform scale on the basis directed by subsection (2).
>
> The Board would have no right to deviate from the declared policy or the directed basis, by taking into account competitive patterns or other rate-making principles, which has been the practice in the administration of the present rate controlling sections of the Act.
>
> If section 332A is enacted as drafted, it is impossible to foresee to what extent or in what way the powers of the Board as set out in sections 314 to 325 may be curtailed.

> These rate-controlling sections have been the subject of many decisions of the Board. Unless the effect of proposed 332A on these other sections is clearly defined, it will take more litigation to clarify the situation.

So it seems that from the drafting point of view this is not a very good effort. You cannot just draft a new section and declare the policy and then throw that right into the middle of these existing sections; and I do not think anyone can say now with any confidence whether 332A, if enacted, would repeal in whole or in part sections 314 to 325. Could the Board have regard to these sections or is this new 332A the only section to which they could have any regard? It is not so easy to amend a statute and throw a new general section into the midst of existing sections.

Hon. Mr. CAMPBELL: Your contention, I take it, is that the section as drafted is so drastic a change that you would lose the benefit of all former decisions under the former principles as laid down in the Act?

Mr. FILLMORE: I do not know just how these existing sections would be affected by this new one. They occupy the same field, and I—

Hon. Mr. CAMPBELL: In other words, you fear a conflct between sections 314 to 325 and the present section 332? Is that right?

Mr. FILLMORE: Yes. If the Board does not enforce rigid uniformity as directed, if they try to take into account some other facts, somebody is going to say "You can't do that. I don't care what you could do before; you can't do that now."

I would like in that connection to call the attention of the committee very briefly to the gist of some decisions that have been made by the Board of Railway Commissioners and the Board of Transport Commissioners. They are found in Mr. Coyne's book on The Railway Act of Canada. I will only read half a page. These are extracts from some decisions of the Board, at one time the Board of Railway Commissioners, now the Board of Transport Commissioners.

> The rate-per-ton-per-mile rule brings rates down to the narrowest point of scrutiny, and for that purpose is valuable, but it excludes consideration of other circumstances and conditions which enter into the making of rates, no matter how compulsory or imperious they may be, and it cannot therefore be accepted as controlling in determining the reasonableness of rates.

So that is what they say about the rate-per-ton-per-mile, in several cases.

> The Ton mile toll is not an infallible measure of the reasonableness or otherwise of a rate or toll, but should be given due weight.
>
> The question of distance becomes in many cases a minor consideration where capital has been invested on the strength of a given rate.

That is what we are concerned about.

> The rate will not be disturbed without taking into account the effect on commercial and industrial conditions.

That is exactly what 332A proposes to do.

> The Board has no power to regulate tolls for purpose of equalizing cost of production or geographical, climate or economic conditions.

That is, if you live in a certain part of Canada you have got to take your geography as it is; you cannot expect that by legislation it will be moved nearer one coast or the other.

So these are some of the principles on which rates have been fixed under the present Act, but it seems to me that they will all go by the board if 332A is put into effect.

We, therefore, submit that a reservation should be attached to the declared national freight rates policy to the effect that it is not intended thereby to disturb competitive relationships between different regions or districts. It should be made clear that the Board of Transport Commissioners may have this principle in mind when establishing any new uniform freight rate structure.

Transcontinental rates: section 332B:—

Because we do not wish to take up the time of this committee and because we feel that the disruption of trade patterns has been amply demonstrated by the Manitoba Government, we are submitting only one example of the result which would follow the implementation of this section. We do this to put on the record one fact not covered in the Manitoba Government's submission and to illustrate what we believe to have been an oversight in the wording of the section. We have chosen as our example steel sheets; a commodity which normally moves on 6th Class. These must be purchased by a Winnipeg firm from Central Canada and then, whether fabricated or merely stored, must be re-shipped to their ultimate destination in Western Canada at a price competitive with a direct shipment from the East.

	At Winnipeg	*At Portage*	*At Yorkton*	*At Saskatoon*	*At Edmonton*	*At Waterways*
Freight to Winnipeg	$1.64	$1.64	$1.64	$1.64	$1.64	$1.64
Freight from Winnipeg ..	....	.28	.63	.93	1.32	1.76
Laid down freight cost..	$1.64	$1.92	$2.27	$2.57	$2.96	$3.40
Freight from Montreal ..	1.64	1.74	2.11	2.42	2.31*	2.95*
Now absorbed by Winnipeg shipper	....	.18	.16	.15	.65	.45

*These rates are based on the transcontinental rate of $1.15 to Vancouver, plus the return rate to Edmonton.

Hon. Mr. REID: The freight to Winnipeg, where is that from? You give it from Montreal: it increases from Montreal to Portage, to Yorkton, to Saskatoon and so on; but in your first figure "Freight to Winnipeg", you do not give any point where it is from?

Mr. FILLMORE: Well, it is from Montreal. Montreal and Toronto are the same. The rates from that whole area in that triangle are the same.

Hon. Mr. REID: It cannot be the same, because your "Freight to Winnipeg" as shown on your top line is the same to all points—to Portage $1.64, and all the way to Edmonton, $1.64. So give us the point in Ontario that you are showing the rate from.

Mr. FILLMORE: May I clarify that a bit?

Hon. Mr. REID: Yes, it needs clarification.

Mr. STECHISHIN: The first line is only put in there to show the method of arriving at the third line. In other words, the shipment going to Yorkton must come to Winnipeg, be stored or fabricated and then re-shipped from Winnipeg for 63 cents to Yorkton, so that the final destination for the shipment has no bearing on the rate from Montreal or Toronto or Sudbury to Winnipeg.

Hon. Mr. REID: I am sorry but it seems I cannot get it clear. In the bottom line you say "freight from Montreal".

Mr. STECHISHIN: Freight from Montreal direct to the various points named.

Hon. Mr. REID: Oh, direct?

Mr. STECHISIN: Yes, that is in line 4, and the other is when there is a stop-over at Winnipeg for fabrication.

Hon. Mr. CAMPBELL: May I just make this point? This is a new rate.

Mr. STECHISHIN: This is the existing rate.

Hon. Mr. CAMPBELL: Under the arbitrary?

Mr. STECHISHIN: As of today, yes.

Hon. Mr. CAMPBELL: You are at a disadvantage, then, in moving to Edmonton from the central area where you have that triangle establishing an arbitrary if you stop in Winnipeg for fabrication, as against the shipment of fabricated goods from that triangle right directly through to Edmonton?

Mr. STECHISHIN: That is correct, sir.

Hon. Mr. CAMPBELL: I thought the arbitraries now existing in central areas protected you in that respect.

Mr. STECHISHIN: Oh, no, the arbitraries are actually put into the freight rate structure to equalize the various manufacturers in eastern Canada. They have no effect on the individual manufacturer or shipper in Western Canada.

Hon. Mr. CAMPBELL: I think they have in this respect that you can ship goods from Montreal to Winnipeg as cheaply as from Toronto to Winnipeg.

Mr. STECHISHIN: The advantage there is to Montreal and not to Winnipeg. Our price would be affected by the lowest rate to Winnipeg, and the others would have to meet that price or go out of business. It is to their advantage and not ours.

Hon. Mr. REID: It would be to the advantage of the Winnipeg purchaser getting goods from Montreal and not Toronto because he would only pay $1.64 from Montreal. It think it is to the advantage of the buyer in Winnipeg if he is buying from Montreal.

Mr. STECHISHIN: Hardly. The Montreal man would have to meet the Toronto price at Winnipeg or else not compete.

Hon. Mr. CAMPBELL: I understand that under the new proposed rate these arbitraries are eliminated.

Mr. FILLMORE: That would be under 332A. We are now coming to the transcontinental rate. Section 332B provides that the rate to any intermediate point, the rate from Eastern Canada to the West, to some point beween Vancouver and the East, shall not be more than one and one-third of the transcontinental rate. In other words, the effect is that it establishes sort of a rate plateau across Western Canada in so far as transcontinental rates are concerned. We have a table of that later. Say the rate from the East to Vancouver is $1.00, then the rate to any intermediate point could not be more than $1.33. At the present time, under transcontinental rates, the rates to Vancouver, the so-called water competitive rates, are considerably less than the rates to points in Western Canada.

Hon. Mr. CAMPBELL: That is by reason of the railways not being required to give to intermediate points the competitive rates?

Mr. FILLMORE: Yes.

Hon. Mr. CAMPBELL: But they do get the competitive rate back to the point where there is a break in the competitive rate and the basic rate.

Mr. FILLMORE: Some goods can be shipped to Vancouver and then shipped back to Edmonton and Calgary and that area more cheaply than they can be shipped directly from the East to those points.

Hon. Mr. HORNER: Surely it is very uneconomic business to ship them out 700 miles and back again.

Hon. Mr. BAIRD: Is that on a strict cargo basis? You say you have 33 per cent more, for instance, if you ship from Winnipeg to Vancouver, and then you want to ship back to an intermediate point.

Mr. FILLMORE: No, that does not apply on shipments from Winnipeg. From Eastern Canada to the West Coast there are what are called the transcontinental rates which they say they are compelled to put into effect to meet water competition through the Panama Canal which affects to some extent traffic both from Eastern Canada and England.

Hon. Mr. REID: Is it not a fact that some of the rates which you have just pointed out have bedevilled the entire railway situation in Canada? It seems that what we have here is designed with a view to eliminating all that. It has to do with trucking where there is no such thing as a through rate. They give you a straight price for the mileage. This whole thing has bedevilled the railway situation and no one can understand it. For instance, you can ship to Vancouver and back to Edmonton more cheaply than you can ship directly to Edmonton. You are quoting the same thing right here or pretty close to it.

Mr. FILLMORE: This table simply demonstrates the present competitive condition between an industry in Montreal and Toronto and one in Winnipeg competing in the western field. We are just pointing out that under existing conditions we are still at a slight disadvantage. Later on we are going to try and demonstrate what the situation will be if this one and one-third formula goes into effect.

Hon. Mr. KINLEY: Do you not think that this table is a natural condition?

Mr. FILLMORE: Yes. We are not complaining about that. All we are trying to advocate is "Do not make things any worse".

Hon. Mr. KINLEY: You are a distributing centre and you want your advantages as a distributing centre maintained.

Mr. FILLMORE: As a distributing centre and manufacturing centre naturally we want to maintain our status quo. We do not want to be worse off after this legislation is passed than we are now.

Hon. Mr. KINLEY: What about steel?

Mr. FILLMORE: Well, you might take a company such as The Manitoba Bridge and Iron Works. Where do they get their iron and steel from?

Mr. STECHISHIN: From Hamilton, Ontario.

Hon. Mr. CAMPBELL: In answer to Senator Kinley, I think you have cleared up your argument very well and if I understand it correctly what you say is that under the present rate structure you are at a distinct disadvantage as compared to plants operating in Montreal, Toronto and that central region, but you have been able to survive nevertheless.

Mr. FILLMORE: Yes.

Hon. Mr. CAMPBELL: Now, if this new structure is put into effect the burden will be so great that your industries will be unable to survive in that area?

Mr. FILLMORE: That is right. We are not complaining about things as they are, but we are apprehensive as to what may happen.

Hon. Mr. BAIRD: 332A is your bug, is it?

Mr. FILLMORE: And 332B.

Hon. Mr. KINLEY: Do you enjoy any advantages with respect to other products? You are not interested in steel, but are there any other products you are interested in where you now enjoy an advantage and which you might lose?

Mr. FILLMORE: You say, senator, we are not interested in steel but we have big iron and steel works in Winnipeg which employ thousands of men.

Hon. Mr. KINLEY: But you do not roll steel out there?

Mr. FILLMORE: Yes, we have a rolling mill at Selkirk.

Hon. Mr. HAIG: It employs four or five hundred men.

Mr. FILLMORE: We have big foundries and iron works employing many men. The Manitoba Bridge would employ six or seven hundred men.

Hon. Mr. KINLEY: With respect to the Maritime Freight Rates Act, the rate eastward is quite a per cent lower than the westward rate, of course. Are you also interested in higher freight rates for Eastern Canada in order to protect western industry?

Mr. FILLMORE: We are not concerned about the Maritime situation. I am not sure that I understand your question, senator, but if rates from eastern Canada to the west were raised that would be something like a tariff that would make it more difficult for manufacturers in the east to compete with western manufacturers. On the other hand, if rates from the east to the west are lowered, that would help assist eastern manufacturers to compete with western manufacturers.

Hon. Mr. REID: In British Columbia certain small industries would like higher freight rates, to give them a sort of tariff protection, but in the general interest we are against that.

Mr. FILLMORE: You cannot please everybody.

Hon. Mr. KINLEY: Much depends upon whether your source of primary products is in the area concerned.

Mr. FILLMORE: Yes. The gross value of iron and iron products produced in Manitoba in 1947 was $55,595,719.

The CHAIRMAN: What you are now dealing with, Mr. Fillmore, is section 332B?

Mr. FILLMORE: Yes. That section provides that the rate from eastern Canada to any intermediate point, that is to any point between the east and the coast, shall not be more than one and one-third of the Transcontinental rate. That would not change the rate to Winnipeg, but the rates to western Manitoba would be down. I will read now from our brief, at page 10:

If Section 332B is passed as it now stands, and if the transcontinental rates are not raised, the following figures would have to be substituted in the above example:

		— At —				
	Winnipeg	*Portage*	*Yorkton*	*Saskatoon*	*Edmonton*	*Waterways*
Freight to Winnipeg	$1.53	$1.53	$1.53	$1.53	$1.53	$1.53
Freight from Winnipeg	—	.28	.63	.93	1.32	1.76
Laid down Freight Cost...	$1.53	$1.81	$2.16	$2.46	$2.85	$3.29
Freight from Montreal	1.53	1.53	1.53	1.53	1.53	1.53
To be absorbed by Winnipeg Shipper	—	.28	.63	.93	1.32	1.76
Now absorbed by Winnipeg Shipper	—	.18	.16	.15	.65	.45
Damage to Winnipeg	—	.10	.47	.78	.67	1.31

I will ask Mr. Stechishin how that rate of $1.53 is arrived at.

Mr. STECHISHIN: That is based on the transcontinental rate of $1.15, plus one-third.

Hon. Mr. REID: May I ask if the eastward rates, from Winnipeg to Montreal and Toronto, are the same?

Mr. STECHISHIN: No, not necessarily. They could be higher.

Mr. FILLMORE: This so-called transcontinental rate is a rate from eastern Canada to the west coast, compelled by competition.

Hon. Mr. REID: May I ask you this question? Are you against the lowering of rates?

Mr. FILLMORE: We are against the proposed section 332B.

Hon. Mr. REID: I just cannot understand you. Are you against the lowering of rates?

Mr. FILLMORE: Yes, by this method, under the provisions of section 332B. These transcontinental rates affect only a limited number of commodities and account for only a small part of the whole railway revenue. These rates are made to meet only water rates, and only a comparatively few articles are shipped by water. What we want to point out is that if this one-and-one-third formula is put into effect Winnipeg will be at a still greater disadvantage than it now is, for instead of having to absorb the differences in freight as set out in the preceding table, which we are now able to meet, we would have to absorb the additional differences given in this table, namely, 10 cents to Portage, 47 cents to Yorkton, 78 cents to Saskatoon, 67 cents to Edmonton and $1.31 to Waterways.

Hon. Mr. REID: In the preceding table you showed that the freight to Winnipeg is $1.64, and now you are saying that if section 332B is put into effect the rate will be $1.53. That is a lower rate, and this is the first time I have heard anyone who is not in the railway business protest against a proposed lowering of freight rates.

Mr. STECHISHIN: The important thing is not the lowering of rates, but the relationship of one rate to another, and we feel that this proposed change would more than offset the advantage to be gained by a lowering of rates.

Hon. Mr. REID: According to your own figures you are now paying $1.64 on sixth-class commodities shipped from the east to Winnipeg, but the proposed new rate would be only $1.53, a reduction.

Mr. STECHISHIN: What we are concerned about, senator, is the relationship between rates. The so-called reduction would be meaningless, because unless the railways got enough revenue they would ask for another percentage increase and the relationship between rates would be disturbed.

Hon. Mr. HORNER: On goods shipped in a raw state from the east and manufactured in Winnipeg and transhipped further on, are you not allowed a through rate?

Mr. STECHISHIN: No.

Hon. Mr. HORNER: The millers are.

Hon. Mr. BAIRD: They are privileged people.

Hon. Mr. HAIG: In their case the special rate is intended to help the farmers.

Mr. FILLMORE: I turn again to page 10 of the brief.

These tables demonstrate that the Winnipeg shipper would be progressively damaged as the distance extends from Winnipeg.

Hon. Mr. HORNER: I can understand that. If they are not allowing processing privileges, it is easy to understand why Winnipeg is anxious about that situation.

Mr. FILLMORE: There is a flat rate right through; they charge $1.53 to Winnipeg, Edmonton and to Waterways, which is 500 miles north of Edmonton.

Hon. Mr. HORNER: What would be the rate then from Winnipeg, after the new set-up?

Mr. FILLMORE: That is shown on page 10.

Hon. Mr. HORNER: Yes; you give the figures here.

Mr. FILLMORE: Line two shows what we would have to add to $1.53.

Please note that section 332B does not put a ceiling on rates originating and terminating in intermediate territory, so that in this and some other cases, it costs 15 per cent more to ship from Winnipeg to Waterways, Alberta, than it does from Montreal to Waterways, despite the fact that neither Winnipeg nor Waterways is affected by the competition at Vancouver. We assume that this is an oversight and was not the intention of the framers of this legislation.

We respectfully suggest that if a qualifying paragraph were added to Section 332A, and if the mandatory language of Section 332B be modified to permit the Board some discretion which would enable it to relate the intermediate rate to the normal rate as circumstances may warrant, most of our apprehension would be allayed.

After all, the $1\frac{1}{3}$ rule is artificial and so far as we know, $1\frac{1}{2}$ or $1\frac{1}{4}$ might be just as reasonable or unreasonable.

The CHAIRMAN: I gather from reading the report of the Turgeon Commission that the $1\frac{1}{3}$ principle is an idea which they developed on their own.

Mr. FILLMORE: Yes.

The CHAIRMAN: In other words, they did not hear any evidence for or against that principle, and nobody has had an opportunity until the present time to make any representations as to what the effect of that would be.

Mr. FILLMORE: That is our understanding. That was one suggestion that came from the outside, and we do not know why it was $1\frac{1}{3}$ instead of $1\frac{1}{2}$ or $1\frac{1}{5}$.

The CHAIRMAN: This is the first opportunity you or any one has had to say what the effect would be.

Mr. FILLMORE: Yes, sir.

The redeeming feature of this Bill, so far as Winnipeg is concerned, is the $7 million subsidy. Everybody likes a subsidy.

Hon. Mr. REID: Why would that be a redeeming feature? It is an arbitrary figure, too.

Mr. FILLMORE: We like to be redeemed with $7 million.

Hon. Mr. REID: If it means a saving on freight to Winnipeg and elsewhere, it is splendid.

Mr. FILLMORE: We do not know what the benefits will be. We understand this section is being amended, and we feel it would be inadvisable to comment on it at this time. In any event, we cannot see that this subsidy would be by any means adequate to offset the disadvantages which are likely to accrue to Manitoba if 332A and 332B are enacted in their present form.

In conclusion may we say that we are not asking for any special favours, but we do ask that we should not be saddled with heavier burdens to the benefit of other areas. We are not opposed to uniformity in principle, but we are apprehensive as to what the result may be if this legislation is enacted in its present form.

I have a suggestion to make as to how 332A might be amended.

Hon. Mr. HAIG: Mr. Chairman, before Mr. Fillmore gives his suggestion, I have a suggestion to make to him. I do not say he should adopt it, but I take the liberty of putting it forward. A few days ago we had before us a repre-

sentative of the Maritime Provinces freight rate organization, in the person of Mr. Smith, a member of the Halifax Bar. His whole campaign was based on the changing of the two proposed sections, 332A and 332B.

The CHAIRMAN: I think he dealt only with 332A.

Hon. Mr. HAIG: He said he had no amendment at the present time for section 332A. I pointed out to Mr. Smith our position when we come to amend section 332A. I reminded him that he was familiar with the Act and the effect this section would have on the Maritime Provinces, and asked, "What amendment do you suggest?"

I presume that Mr. Fillmore is now prepared to give us his suggestion for the amendment of sections 332A and 332B. But before he does so I think he should get together with Mr. Smith and from them we should get a joint amendment. Mr. Fillmore's argument is very similar, if not the same, as that put forward by Mr. Smith, and I think they should attempt to agree on an amendment. Such procedure would be most helpful to us.

Mr. FILLMORE: Perhaps, Senator Haig, I could give the committee my ideas, and I will speak to Mr. Smith. I don't know whether we will be able to get together or not.

Hon. Mr. HAIG: That will be fine.

Mr. FILLMORE: If the committee will turn to subsection 4 of section 332A, at the top of page 5 of the Bill, they will note it commences as follows:

> Subsections one, two and three are subject to the proviso to subsection five of section three hundred and twenty-five of this Act and to the Maritime Freight Rates Act, and do not apply in respect of—

I would suggest that the present subsection (*f*) be designated (g), and moved to the bottom of the section, and that there be added a new section (*f*) as follows:

> Or where the Board considers that an exception should be made from the operation of this section having regard to its effect on established industries and trade and market patterns;

That is almost the exact wording the Royal Commission used when its members were discussing this question and writing their chapter on equalization.

As amended, subsection 4 would then read:

> Subsections one, two and three are subject to the proviso to subsection five of section three hundred and twenty-five of this Act and to the Maritime Freight Rates Act, and do not apply in respect of—

Omitting the reading of paragraphs (*a*), (*b*), (*c*), (*d*) and (*e*).

> —(*f*) or where the Board considers that an exception should be made from the operation of this section having regard to its effect on established industries and trade and market patterns;

Hon. Mr. REID: Do you really believe that will give you protection before the Board?

Mr. FILLMORE: Maybe not.

Hon. Mr. REID: I don't know.

Mr. FILLMORE: I would be glad to have a suggestion that would give us greater protection.

Now, gentlemen, I do not wish to take up too much of your time, but I have one other suggestion along this line. Counsel for the Canadian Pacific Railway Company submitted an alternative suggestion, which you will find at page 85 of the Commons' Railway Committee Minutes of Porceedings and Evidence, No. 2 dated Wednesday, 7 November, 1951.

I must say that I like the C.P. draft, and I prefer it to the way 332A is now framed. Having no particular interest in the C.P.R., and having been fighting them for the City of Winnipeg through various courts, yet I realize that this was drafted by a man who knows railway law. They know railway law, and not only know the law, they are working with it in practice. They have got some practical knowledge of how it works and how it is applied, and they can realize what the impact of 332A would be on the present Act much better than even the Commissioners who constituted the Royal Commission. And I have got a great respect for anything drafted by a lawyer who is an expert in that line. So that I think, if the section proposed by the C.P.R. were adopted, we would not have the same conflicts with the other sections of the Act as are now apt to take place if it stands. I am reading now from page 85 of Proceedings No. 2:

> It is hereby declared to be the national freight rates policy that differences in rates as between various parts of Canada, although not amounting to unjust discrimination within the meaning of Section 314, shall be eliminated as far as may reasonably be practicable, having due regard to all proper interests, and the Board is hereby empowered and directed, from time to time, to review the freight rate structure within Canada, with a view to carrying out such policy and to make such orders by way of revision of rates and tariffs or otherwise as it may deem proper.

In order that it may be on the record I will read the remarks that I have in reference to the C.P.R. proposed section.

Hon. Mr. CAMPBELL: Mr. Fillmore, if I may interrupt: both your amendment and the C.P.R.'s proposal for amendment simply leave the discretion in the hands of the Board of Railway Commissioners and do not tie their hands by specific legislation? Is not that true?

Mr. FILLMORE: Well, my suggestion only permits taking into account competitive relationships and trade patterns and so on.

Hon. Mr. CAMPBELL: But still it leaves that to the Board?

Mr. FILLMORE: Yes, it would leave that open to the Board, at any rate. I think I will read my comments on the C.P.R. draft, so that they will be on the record.

> The proposed section 332A, subsections (1) and (2) as drafted by C.P.R. counsel, is in my opinion preferable, for the following reasons, namely:
>
> It does not come in direct conflict with the other rate-making and rate-controlling sections of the Act such as section 314 to section 325. If 332A is passed in its present form, it is impossible to say just how far it will override these other sections or whether the Board will be left with any or what powers under these existing sections in the Act. The C.P.R. draft does not give rise to this conflict and to this uncertainty, but it does give the Board all necessary powers and directions to establish and work out uniformity without doing violence to the other sections of the Act.
>
> In the C.P.R. draft you will find the expression "Although not amounting to unjust discrimination within the meaning of section 314"; this was inserted because under section 314 the Board could not control or alter rates on the application of the shipper or third party unless such shipper or third party could demonstrate that there was unjust discrimination. 332A also contains the expression "having due regard

to all proper interests"; this same expression is found in section 322 and is used by the Commission itself at section 11, page 127 of the Royal Commission Report:

> 11. With the uniform equalized class and commodity scales so constructed and put into effect within a reasonable period it may be possible to use these scales as a pattern for the elimination of the several other anomalies which exist in the numerous special freight tariffs between specified points. It may be expected that such special freight tariffs will be brought into uniformity in so far as this can be accomplished having regard to all proper interests.

This will also give the Board some leeway in complying with the recommendation of the Royal Commission at page 125. That recommendation, dealing with the objective of equalization, is already in our brief, and it contains this sentence:

> Undoubtedly many serious problems are involved, for example the effect that the proposals may have on the railway revenues, on established industries and on trade and market patterns. All these things are matters of utmost importance.

Referring again to the C.P.R. draft, subsection (2), you will note the words "uniform scale or scales". The words "or scales" are the words which should be underlined in subsection 2(a). The reason for this is that in carrying out the policy of equalization expressed in the previous subsection, the Board may find it impossible to impose a single mileage scale for application all over Canada regardless of mileage without causing a major disturbance of the economy of the country.

The CHAIRMAN: That is the sort of thing that would meet the Maritimes objection, I suppose?

Mr. FILLMORE: Well, I don't know. I would think it would. I do not like to speak for them. I did not hear their submission.

For example, while it may be quite possible to establish one scale that will be applicable within the West, within the East and within the Maritime Provinces, a different scale may be necessary for movements between these regions. Obviously, a different scale for inter-regional traffic can cause no injustice, as the benefit will be shared by the regions.

Those are the reasons I have considerable respect for the new section as drafted by the counsel for the Canadian Pacific Railway Company. It is drafted by practical men and it appears to be specific in directing the Board to establish uniformity in so far as is reasonably practical and yet it gives them a chance to safeguard all proper interests.

Hon. Mr. KINLEY: You have said nothing about provincial traffic by truck. Is that not a protection against undue freight rates or arbitrary action by the railroad in the province of Manitoba?

Mr. FILLMORE: Of course, that is a different subject, senator. The railways have an opportunity to meet competition in the central provinces and in the West if they want to. They can put in competitive rates and, of course, often do. I do not see that truck competition, however, comes into this picture now at all.

Hon. Mr. KINLEY: Now, in the submission of the Commission it is claimed that the real reason for the low freight rates in the central provinces is the truck competition, and therefore if your truck competition is increasing and your roads are improving at the same time, it would seem to me to be a great protection for Winnipeg as a distributing centre to have a greater truck service.

Mr. FILLMORE: We do have a lot of truck service, and that is what is harming the railroads. The railroads have got a terrific problem arising out of truck competition. We all realize that because the truck drivers take the local freight and the cream of the business and they use the public highways.

Hon. Mr. KINLEY: Competition is the life of trade. That is your protection.

Mr. FILLMORE: I do not see that that subject comes into this picture because under subsection 4 competitive tariffs are excepted. 332A is not intended to prevent the railways from putting competitive rates into effect.

Hon. Mr. KINLEY: How does this affect express rates? There is an enormous amount of goods carried by express today. It is like the airmail over the regular mail.

Mr. FILLMORE: I do not think there is anything in the bill about express rates.

Hon. Mr. KINLEY: Does the Board control express rates?

Mr. FILLMORE: Yes, I think so.

Hon. Mr. REID: I think the committee would be well advised to find out what the effect of the proposed new legislation would be on sections 314 to 325.

Mr. FILLMORE: This is not my business but before I would give this matter final consideration I would want the best man in the Department of Justice to answer this question: What effect would 332A have on the existing sections of the Act if it is passed in its present form, and would the Board be able to take into consideration any of the rate-making factors which had formerly been taken into account if 332A is passed in its present form?

Hon. Mr. REID: At the beginning of your statement there was one remark to which I should like to draw attention. You said "Distributors and manufacturers in Manitoba have not yet recovered from the disastrous effect occasioned by the opening of the Panama Canal nearly forty years ago." Well, I will tell you that when the Panama Canal was opened the prairies did their biggest trade in wheat and grain. I should like you to tell us how the Panama Canal has been disastrous. Manitoba certainly benefited from the opening of that canal.

Mr. FILLMORE: My only comment is that in the early days Winnipeg was called the Gateway to the West and it was a great distributing centre, and after the opening of the Panama Canal the importance of Winnipeg as a distributing centre gradually faded out.

Hon. Mr. HORNER: Interests in Montreal said that wheat could not be shipped through the Panama Canal because it was too hot in that zone. Most Manitoba wheat comes down by way of the Great Lakes. A quantity of it goes through the Panama Canal, but this is really a question for each section of the country.

Hon. Mr. KINLEY: Mr. Chairman, Mr. Fillmore has said: "Winnipeg has a natural geographic advantage over other western cities, and this should be respected". Do I anticipate that some other western city or cities will get an advantage over Winnipeg if this Act goes through as it is?

Mr. FILLMORE: What we have in mind here is that we are situated 425 miles from the head of the lakes. We are right at the beginning of the western prairies and we think it is a natural place for freight to come in from the east and be re-distributed. It also seems to us to be a natural place to get in raw materials to be fabricated and then re-sold in the West.

Hon. Mr. KINLEY: Then you went on to say: "We must even now absorb some freight and nearly all shipments we make to meet eastern competition because the through rate is lower than the sum of the rate to Winnipeg and the rate beyond". What is wrong with that?

Mr. FILLMORE: I am not complaining about it, sir. The way the freight tariff is made up is that there is a rate, we shall say, to Winnipeg, and then you ship goods West and you add the rate from Winnipeg west, but the through rate from the East to the point West is a little less than the sum of those two.

Hon. Mr. KINLEY: Naturally.

Mr. FILLMORE: We are not complaining about that.

Hon. Mr. CAMPBELL: What you did emphasize though, just to clear up Senator Kinley's question, is that while you are operating under that disadvantage today, the new proposal would be so great that it would destroy the effect of the policy of equalization which is the very basis of this legislation. Is that not right?

Mr. FILLMORE: Section 332B would certainly destroy the principle of equalization, but whether section 332A would or not would depend entirely on how it is worked out. If it is worked out exactly in the manner proposed by the railways in their study, then it would be to the detriment of Winnipeg.

Hon. Mr. KINLEY: What do you think is the significance of equalization in view of the various provisos, the commodity rate, the class rate and so on? What does all this mean anyway?

Mr. FILLMORE: I can give you some of the percentages. The traffic moving now on the standard class rate, I think, is only 10 per cent. The traffic on the commodity rates, which are affected likewise, accounts for a much larger percentage.

Hon. Mr. KINLEY: Those are lower rates?

Mr. FILLMORE: Yes, they are lower than class rates, but they are to be made uniform on the same basis. Quite a substantial part of the traffic, particularly between eastern Canada and western Canada, comes under the standard class and the commodity rates—a larger proportion than comes under these rates between any other part of Canada.

Hon. Mr. HAIG: Mr. Chairman, I move that we adjourn.

The CHAIRMAN: Before we adjourn I wish to express, on behalf of the committee, our sincere thanks to Mr. Fillmore and Mr. Stechishin for the very lucid expression of their views.

Hon. Mr. HAIG: When shall we meet again?

The CHAIRMAN: I do not know at the moment. We are more or less holding ourselves in readiness to hear any of the parties who are appearing before the Railway Committee in the other house and who may wish to appear before us. I will ascertain from the Chairman of that committee, Mr. Cleaver, whether any of those parties do wish to appear here.

Hon. Mr. KINLEY: Mr. Chairman, do you not think it would be well for us to hear what the railway authorities and the government have to say, so that we may know what the reason for this bill is?

Hon. Mr. BAIRD: That is obvious, to jack up the rates.

Hon. M. KINLEY: I would like to be told why this bill is being brought in.

Hon. Mr. HAIG: Mr. Chairman, I move that we adjourn, to resume at the call of the Chair.

The motion was agreed to, and the Committee adjourned to resume at the call of the Chair.

1951

THE SENATE OF CANADA

PROCEEDINGS

OF THE

STANDING COMMITTEE

ON

Transport and Communications

On the Report of the Royal Commission on Transportation

No. 3

THURSDAY, NOVEMBER 22, 1951

The Honourable Adrian K. Hugessen, Chairman

WITNESSES:

Mr. F. C. S. Evans, K.C, Vice-President and General Counsel, Canadian Pacific Railway Company, and Mr. C. E. Jefferson, Vice-President of Traffic, Canadian Pacific Railway Company.

OTTAWA
EDMOND CLOUTIER, C.M.G., O.A., D.S.P.
PRINTER TO THE KING'S MOST EXCELLENT MAJESTY
CONTROLLER OF STATIONERY
1951

STANDING COMMITTEE
ON
TRANSPORT AND COMMUNICATIONS

The Honourable ADRIAN K. HUGESSEN, *Chairman*

The Honourable Senators:

Aseltine	Horner
Baird	Hugessen
Campbell	Kinley
Davis	McLean
Dessureault	Nicol
Gershaw	Paterson
Grant	Raymond
*Haig	*Robertson
Hawkins	Reid
Hayden	

*Ex officio member.

ORDER OF REFERENCE

EXTRACT from the *Minutes of the Proceedings* of the Senate, Friday, 19th October, 1951.

Ordered, That the Standing Committee on Transport and Communications be authorized to examine and report upon the Report of the Royal Commission on Transportation and especially upon the proposal to equalize freight rates and the effect of such proposal on specific areas of Canada.

That the said Committee be empowered to send for persons, papers and records.

That the Committee be authorized to sit during adjournments of the Senate.

ATTEST.

L. C. MOYER,
Clerk of the Senate.

96211—1½

MINUTES OF PROCEEDINGS

THURSDAY, November 22, 1951.

Pursuant to adjournment and notice the Standing Committee on Transport and Communications met this day at 11 a.m.

Present: The Honourable Senators—Hugessen, Chairman; Baird, Campbell, Davis, Dessureault, Gershaw, Haig, Kinley, Nicol, Paterson and Reid.—11.

In attendance: Mr. J. F. MacNeill, K.C., Law Clerk and Parliamentary Counsel. The official reporters of the Senate.

Pursuant to the Order of Reference of October 19, 1951, the Committee resumed consideration of the report of the Royal Commission on Transportation.

Mr. F. C. S. Evans, K.C., Vice-president and General Counsel, Canadian Pacific Railway Company, and Mr. C. E. Jefferson, Vice-president of Traffic, Canadian Pacific Railway Company, were heard with respect to the Report of the Royal Commission on Transportation, and especially upon the proposal to equalize freight rates and the effect of such proposal on specific areas of Canada.

At 1 p.m. the Committee adjourned until this afternoon when the Senate rises.

At 4.15 p.m. the Committee resumed.

Present: The Honourable Senators—Hugessen, Chairman, Aseltine, Baird, Campbell, Davis, Dessureault, Gershaw, Haig, Hawkins, Kinley, McLean, Paterson and Reid.—13.

In attendance: Mr. J. F. MacNeill, K.C., Law Clerk and Parliamentary Counsel. The official reporters of the Senate.

Mr. F. C. S. Evans, K.C., and Mr. C. E. Jefferson were further heard on the proposals of the Royal Commission on Transportation.

At 6.15 p.m. the Committee adjourned until Wednesday, November 28, 1951, at 10.30 a.m.

ATTEST.

JAMES D. MACDONALD,
Clerk of the Committee.

MINUTES OF EVIDENCE

THE SENATE

OTTAWA, Thursday, November 22, 1951.

The Standing Committee on Transport and Communications, which was authorized to examine the report of the Royal Commission on Transportation, met this day at 11 a.m.

Hon. Mr. HUGESSEN in the Chair.

The CHAIRMAN: Gentlemen, we have a quorum, if the committee will be good enough to come to order. Before dealing with the particular matter for which this committee was called, I think I should direct the committee's attention to the fact that we have received a copy of the written statement made by the Government of the Province of Manitoba to the committee in the other place, their counsel being Mr. Shepard. They have said that they will be here next week, and they will be glad to appear before the committee to make the representations to the committee on behalf of the Province of Manitoba which they have already made to the House of Commons Committee. I would like the sense of the committee as to whether we should meet next week, and invite the Province of Manitoba to make representations.

Hon. Mr. HAIG: Mr. Chairman, as one of those from Manitoba, I would be delighted to have them make their representations. They gave me a copy of the brief some time ago. I think that they largely agree with the representations that the City of Winnipeg made, but on other points I believe it would be desirable to have their views. They agree largely with the legislation, outside of that one point.

The CHAIRMAN: 332B?

Hon. Mr. HAIG: Yes. Both 332A and 332B. It is a combination of both. I think it would be well to hear them. Maybe I should not say this, but I do not think they need to make a long presentation; if they would cover just the points in dispute, that would help us more than anything else. As I say, they agree largely with the rest of the legislation. They agree with the principle of the equalization of rates. I would move that they be heard.

Hon. Mr. REID: I think, Mr. Chairman, we should hear them. There are three or four provinces from whom delegations are due. One, I know, is the Province of British Columbia. We have heard someone representing the Maritimes and Nowfoundland. I think it is important that the Senate should hear the voice of the provinces, and I would like to hear the presentations of Manitoba and of British Columbia. After all, the provinces are important.

The CHAIRMAN: I gather that it is the sense of the committee that we should invite the Province of Manitoba to make these representations before us on some day next week.

Hon. Mr. KINLEY: Is it an invitation, or did they ask to come?

The CHAIRMAN: Well, they did not ask to come. They said they would be willing to appear.

Hon. Mr. KINLEY: Well, we could say that we would be very happy to hear them.

The CHAIRMAN: We could probably hear British Columbia at the same time, if the Manitoba presentation is short.

Hon. Mr. KINLEY: Leave it up to them whether they want to come or not.

Hon. Mr. DAVIS: On Thursday, the 15th November, Manitoba, Saskatchewan and Alberta were heard in one day, according to the report I have in my hand here.

Hon. Mr. REID: I think that was a whole day sitting, though.

Hon. Mr. HAIG: I think they are anxious to come, but I do not think they want to "butt in", if I may so express it. I agree with Senator Reid. I think we should hear them.

The CHAIRMAN: Will the committee leave it to the Vice-Chairman, Senator Kinley, and myself to try and arrange a date next week on which to hear the Province of Manitoba, and perhaps other provinces?

Hon. Mr. KINLEY: If they desire to come.

The CHAIRMAN: Yes.

Hon. Mr. DAVIS: There is no reason why we could not sit in the afternoon, like we did at the other place.

Hon. Mr. HAIG: I think we could get through in the morning.

Hon. Mr. KINLEY: They say that this will be all through in the other place next week.

The CHAIRMAN: In order to expedite things we might have the written submission of the Province of Manitoba circulated to the committee before this meeting next week, so that they need not go through their submission word for word, but be ready to answer questions on what we have read.

Hon. Mr. HAIG: I suggest that you, Mr. Chairman, and the Deputy Chairman arrange it whatever way you like. We have confidence in you.

Hon. Mr. PATERSON: Do you not think that Mr. Fillmore's representation covers Manitoba's case?

The CHAIRMAN: Not entirely, Senator. As I understand it, the City of Winnipeg had some criticisms of section 332A, to which we listened the other day.

Hon. Mr. REID: Affecting industries of Manitoba.

The CHAIRMAN: And they did not emphasize their objection to section 332B as much as the Province of Manitoba. That is what I gathered from reading the representations before the House of Commons.

Hon. Mr. HAIG: Well, I am strong for Winnipeg. As you know, I come from there.

The CHAIRMAN: We have heard that, Senator!

Hon. Mr. HAIG: I agree with Senator Reid that the Province of Manitoba representatives should speak for the province.

Hon. Mr. REID: After all, the Winnipeg representatives were concerned with certain industries in Winnipeg.

Hon. Mr. HAIG: That is what we did with the Maritime Provinces. We took all those provinces together, and it worked out very well. They asked us to do that.

The CHAIRMAN: I will instruct the clerk to circulate to the members of the committee during the next day or two the written submission of the Province of Manitoba, so that we will be in a position to read it, and they will not need to read it before us *in extenso* when we meet next week.

That being agreed upon, then: this morning we have before us representatives of the Canadian Pacific Railway—Mr. F. C. S. Evans, K.C., Vice-President and General Counsel; Mr. K. D. M. Spence, the Commission Counsel; and Mr. C. E. Jefferson, Vice-President in charge of traffic. Mr. Evans, I think, will make the primary representation on the part of the C.P.R.; and if members agree, shall I call upon Mr. Evans?

Hon. Mr. REID: Is the witness speaking on behalf of the C.P.R., or the two railways, because I seem to hear more of C.P.R. representations than C.N.R. I wondered if the Canadian National consent to this.

The CHAIRMAN: I am afraid, Senator Reid, you have not been doing your home-work, because if you read the printed reports of the proceedings before the House of Commons Committee you will see that in certain respects the Canadian National Railway does not take the same view as the Canadian Pacific Railway. I think it is fair, in answer to your specific question, to say that Mr. Evans will make representations solely on behalf of the C.P.R. Is that so?

Mr. EVANS: That is so, sir.

Hon. Mr. CAMPBELL: It is quite possible the C.N.R. are not in the same position to make representations as the C.P.R.

The CHAIRMAN: To a degree. They differ somewhat.

Hon. Mr. HAIG: Their position differs somewhat too. There is no use blinding ourselves to the fact that one road is controlled by the government and the other is not. If I were a director of the C.N.R. I do not think I would want to come up here and get into a hot fight with the government, though I might disagree with them.

Hon. Mr. REID: There is no competition between the two railways. It is a fine social arrangement.

Hon. Mr. HAIG: What affects the C.P.R. affects the C.N.R. the same way. There is no doubt about that.

The CHAIRMAN: Shall I call upon Mr. Evans?

Mr. F. C. S. EVANS, K.C.: Mr. Chairman, honourable senators, we of the Canadian Pacific appreciate very much the opportunity of presenting our views on this bill to this senior group in the Parliament of Canada.

This legislation, in my view, is perhaps the most important railway legislation that has presented itself for consideration since 1903, when the present Board of Transport Commissioners was formed with authority to deal with the rates of the railways. Because that is so and because in my respectful submission the changes which are being made in this bill are rather drastic in their character, my hope is that considerations which are not wholly selfish considerations as regards the railways may play their part in your deliberations. I would have preferred a somewhat less drastic rewriting of the tariff section of the present Railway Act. I am not, however, taking the position that these sections should not be rewritten. I am suggesting that there is this consideration which ought to be in the forefront of everyone's thinking, that however much we may deservedly claim that railway rates in this country are not so serious a burden as sometimes is alleged, we cannot overlook the fact that industries throughout Canada are built up in their locations by cost, not only of raw materials, labour and other things that normally associate themselves in your mind, but also having regard to transportation costs, which, after all, are elements of cost generally in industry. Now, then, it has been our anxiety in presenting our views to the committee in what is here called the other place, and it is equally our anxiety in presenting our views to you, to leave with you the impression that we are not here taking sides as between differing regional viewpoints. We do not say that British Columbia should or should not have advantages or disadvantages or that some relief should or should not be granted to the Maritime Provinces. We are only concerned as railway people with a considerable amount of experience in dealing with these things in getting workable legislation which will not add to the already great difficulties which have faced us, and I might say, to the already bitter controversies which we have faced on this question

of railway rates. I might digress and say this to you because the Honourable Senator Reid rather brought it to my mind. The Canadian Pacific, because it is a privately-owned enterprise, has been in the forefront of all the rate cases and all of the discussions such as the Royal Commission because it is the rate-making yardstick, as it has been called. That is to say, the Canadian Pacific's earnings and the Canadian Pacific's accounts are more largely and carefully scrutinized, because upon them and not upon the accounts of the Canadian National so far have rates and the level of rates been fixed.

I want to add that we are not here challenging any of the principles which the bill deals with except one, and that is the provision with regard to trans-continental competitive rates contained in section 332B. With regard to all other sections of the bill to which we have offered amendments, we offer only such amendments as in my respectful submission, while not destroying the principles of the recommendations of the Royal Commission, will in our view accomplish its purpose with the least restriction on the Board and the least dislocation. It seems to us that in matters of this kind the general powers contained in the Act under which the Board is given substantial discretion are preferable to setting forth in detail a number of specific things which tell the Board in effect by statute how they are to carry on their duty. So I say that in legislation relating to an administrative tribunal, generality is preferable to particularity. Many of the sections seem to us to have gone a little too far in the direction of tying the Board's hands, and in consequence seem to us to suggest that technical decisions which ought to be made by the Board are to be made by parliament or by its committees, which in the very nature of things, in my respectful submission, are not equipped to make such decisions. Now, then, may I proceed to examine section by section the provisions of the bill?

The CHAIRMAN: Excuse me, but I think all members of the committee have copies of Bill No. 12.

Mr. EVANS: I have very little to say on section 328, which contains the provision showing the kinds of tariffs that may be put into effect by railways and defining what each of those terms means. We offered certain amendments which we thought were sound and wise and which helped to clarify these definitions. The committee in the other place at the moment seems not to have been impressed by our suggestions. I am not going to go into them in detail because they are not vital to the real submission I want to make to you. I merely suggest to you that these definitions may have considerable importance and we think ours are a little more accurate than those contained in the bill.

Hon. Mr. HAIG: Would you illustrate one of them, please?

Mr. EVANS: Yes. For example, the bill says in subsection 3 of section 328: "A commodity rate is a rate applicable to an article described or named in the tariff containing the rate". Now, our definition, which appears at page 84 of the Minutes of the Committee of the House of Commons, reads: "A commodity rate is a rate lower than the normal class rate and is applicable only to the commodity or commodities named in the tariff". Now, there are a number of distinctions but the essential one between the definition in the bill and the definition we suggest is that the tariff does not always contain the rate. For example, a commodity rate may be put into effect for the purpose of making some special rate for a commodity which would otherwise move on the higher class rate. In some cases, instead of putting the new rate in the tariff, the commodity rate tariff simply says that the article heretofore classed as fifth class takes the rate for seventh class; but the tariff does not contain the rate itself. We felt that that type of thing could be cleared up by a simple amendment.

Hon. Mr. CAMPBELL: Under this definition the commodity rate must always be stated in the tariff?

Mr. EVANS: Well, it was argued by the Manufacturers' Association or by somebody who was making a similar suggestion that it might now be classed as a class rate, although in fact it was a commodity rate, but just what would eventuate is very difficult to say, senator.

Hon. Mr. CAMPBELL: A commodity rate is always lower than a class rate, is it not?

Mr. EVANS: Under the present structure, no, but under the new structure I would think yes. That is one of the things the Manufacturers' Association point out in their brief, that under the present structure some of the commodity rates are higher than class rates; but under the new structure of uniform class rates the commodity rate must, I should think, be inevitably lower.

Hon. Mr. REID: Must all classifications of tariffs be submitted to the Board of Transport Commissioners or are some classifications made by the railways themselves? There are different classifications of rates—competitive rate tariffs, class rates, and so on. Are they made under the authority of the Board of Transport Commissioners?

Mr. EVANS: Yes. At the present time we have what are known as standard tariffs. These are being done away with, except in the case of passenger tariffs. These standard tariffs are known as ceiling tariffs, and under section 330 of the present Act they must have approval of the Board of Transport Commissioners before a railway can put them into effect. Then there are class rate tariffs below that level. We have a class rate tariff, called distributing class rates, in western Canada, and we have what are called Schedule A rates in eastern Canada. Those are all lower than the standard class rates. The class rate tariffs cover commodities generally, and when certain commodities moving in large volume must have special provision made for them the railways publish what are called commodity tariffs, which are lower than the standard rates, but are applicable only to the commodity or group of commodities named in those tariffs. The railways may increase or decrease those tariffs, so long as they are not made to exceed the standard tariffs, simply by filing the new rates and allowing a certain period of time to expire before they go into effect. The period of time is this: If the rate is reduced, the time which must expire before it becomes effective is three days; and if the rate is increased, the time which must expire before it becomes effective is thirty days. But in no case may any of these tariffs be higher than the standard tariff, which is the ceiling, without approval of the Board. Now in point of fact if we are making general increases in rates, there are so many of these individual commodity rates that have an order of the Board in connection with them—there may have been a complaint in connection with them, or there may have been a decision by the Board fixing a particular rate—as I say, there are so many of these that if we attempted to make general increases in these rates we would run into some here and there that are related to those that have been made the subject of an order by the Board, so that in every case where we ask for general increases it is politic and proper that we go to the Board and tell them what rates we want to increase.

Hon. Mr. KINLEY: In this bill the standard tariff is eliminated?

Mr. EVANS: Yes, sir, that has been done. I have expressed to the committee in the other place the view that this is a retrograde step. The only point I make about that is my general point that we have a large body of experience and decisions built up under section 330, and it does seem to me that there is value in them. While I am not one who argues that there should be no change, I do think that something which is old is not necessarily wrong. But I am not making representations on that subject today, senator.

Hon. Mr. KINLEY: Wherein does the class rate tariff differ from the standard tariff? Does the class rate tariff take the place of the standard tariff in the new bill?

Mr. EVANS: The new so-called uniform class rate scale will take the place of the standard tariff. It is not in terms called the ceiling nor does it require prior approval, although in fact that class rate scale is bound to have prior approval because it will emerge from the general inquiry which the Board is making.

Hon. Mr. KINLEY: That will be your standard tariff, so-called?

Mr. EVANS: Yes.

Hon. Mr. KINLEY: The class rate tariff?

Mr. EVANS: Yes.

Hon. Mr. KINLEY: Is it just a change in names or does it have any special significance?

Mr. EVANS: The significance is this, senator. The standard tariff is a well understood term and was always considered to be the ceiling. When you mention "standard tariff" every railway man and I should think every shipper in the country thinks of it as the upper ceiling beyond which the railways cannot go without permission, that it is a tariff which has to have prior approval.

Now, may I turn to section 329(*b*)? I am not going to spend any time on it, but I want to put on the record the amendment which was adopted in the Commons Committee, which I think is merely a qualifying amendment. It would read as follows:

> (*b*) may, in addition, specify class rates between specified points on the railway and when such rates are established in groups the rates between the groups may be higher or lower than the rates specified under paragraph (*a*).

Paragraph (*a*) is the one that describes the class rate tariffs.

The CHAIRMAN: You approve of that amendment, do you?

Mr. EVANS: I think it is probably desirable, Mr. Chairman. It is a technical amendment. In view of the explanation made to the other committee by counsel for the department I think it is obviously intended to clear up the meaning of paragraph (*b*), which at present is certainly obscure, but it does have a bearing on the question which was asked of me whether there could be any rates higher than the uniform class rate scale. This only means that in technical positions where you have groups there may be point-to-point class rates that are higher than the mileage rates between the groups.

We did, however, offer an amendment to section 329, which so far as we now know the committee has not seen fit to allow. However, the amendment which we propose naturally falls into another discussion, which I shall present to you later on the provisions of section 332A; I am going to leave that until I reach that section, because my arguments are closely allied. I need not do more than mention that the committee in the other place adopted an amendment to subsection 2 of section 330, which was not the same as we had proposed.

I come next to a section which has afforded us a great deal of difficulty, that is, section 331. It is difficult for me to give you a clear understanding of the position we take with regard to this section without, to some extent, repeating what I said to the other committee. I have endeavoured to avoid that wherever possible, but I think I might do so in order to have you understand my point.

With regard to subsection 1, we have no suggestion. The purpose of subsection 2 is to provide that when the railway company issues a competitive rate the Board may require it to establish that such competition exists, that the rates established to meet that competition are compensatory and that such rates are not lower than necessary to meet the competition. The point really is this: Competitive rates are in the category where the railway, under the present Act, has the most latitude; that is to say, the normal rates applicable

to certain commodities are reduced to meet competition of other carriers, via the Panama Canal, by water, and by trucks on the roads. The theory on which we are given the latitude is that any discrimination that may result between two particular points where the railway rates are lower than normal rates, is not the discrimination of the railway but the discrimination of other carriers, and those points can get the benefits of those rates if they patronize the other carriers. So the Board has recognized that competitive rates are in a very different category. There are two rules that everybody admits must apply. First, the railway rate must never be less than its out-of-pocket cost of handling the competitive traffic; and second, although the ordinary rule of unjust discrimination does not apply for the reasons I have given, if a railway has competition at two points where shippers are competing, it cannot meet the competition at one point and not meet it at the other; in other words, it has to choose to meet the competition at both points, or not meet it at all; the rule of unjust discrimination would compel it. Apart from that, the one outstanding feature of the competitive rates is that they must not be used as a standard of reasonableness of other rates; they are in a special category, and the level is fixed by competitors, and not by the railway.

Hon. Mr. CAMPBELL: May I interrupt you, Mr. Evans? You mean the competitive rate cannot be used by any shipper, for instance, in developing his case for a lower class or commodity rate?

Mr. EVANS: That is right.

Hon. Mr. PATERSON: Mr. Evans, why would the railway want to quote a rate at less than cost? What circumstances would arise in which the railway would have to be protected from operating at less than cost?

Mr. EVANS: I would say there is no necessity, because if there is one thing that my friend Mr. Jefferson is very careful of, it is of the money that is coming into the Canadian Pacific. I am perfectly sure that he never in his life made a competitive rate that he was not sure was going to pay something more than the out-of-pocket costs. However, we have been accused of making rates that are not compensatory. I think it is quite clear that the Board could prevent us doing so, but I am not going behind the suggestion of the Royal Commission in this connection. I am saying if there is any doubt about the power of the Board to prevent us doing so, I have not the slightest objection. My objection to this section is that it has too much particularity and not enough generality.

Hon. Mr. CAMPBELL: It is too rigid and does not leave discretion in the hands of the Board.

Mr. EVANS: Yes. And what is more, we have to meet the competition of competitors who are very largely unregulated. If you are going to put a procedural limitation or handicap on our right to make competitive rates, you are going to still further handicap the railway company, which is already heavily regulated, in dealing with its competitors which are not adequately or equally regulated.

Hon. Mr. KINLEY: But you have a supplementary service on competitive rates; that is, you have a rate from one city to another, and you have a distributing service. Do you include those figures in your competitive rates? Are you free to do that, as against your competitors?

Mr. EVANS: We are free to do that, if we choose to do so. We have in some cases put in a pick-up and delivery service.

Hon. Mr. KINLEY: But that has nothing to do with the rate?

Mr. EVANS: It is very often included in the rate. There are other cases where we do not include it in the rate, but it is very often included. That is one means by which we can meet our truck competition.

Hon. Mr. BAIRD: You quote a through rate?

Mr. EVANS: We quote a rate from door to door.

Hon. Mr. REID: Has it not been long a complaint of the general public, in appearing before the Board of Transport Commissioners, that the Act is wrong in that it leaves too much discretion with the Board, and does not particularize enough!

Mr. EVANS: It would only be fair to say that there were such complaints. I do not think that was accepted in principle by the Royal Commission. I can remember that, when Counsel for Manitoba addressed the Commission—and I can give you the reference—he was asking for a great deal of particularity in respect of a new section in the Act, which the Commission afterwards rejected, and the Chairman turned to him and said, just as I said at the opening, "do you not think that generality in such matters is to be preferred to particularity"? I think that by and large that must be so. If you have confidence in your administrative tribunal—and if you have not you should change it—it seems to me that you must give it some latitude. Much of the complaint has, I think, been as to the dissatisfaction with the decisions of the tribunal, and not that it had too much latitude. If you are going to try appeals from such a tribunal, my respectful submission is that you do not do it by statute, but that you either improve or strengthen the tribunal. While you have such a body, I think it should have discretion, and that discretion can be exercised against us just as often as against other people. It often is, I can tell you.

Now, then, I offered in lieu of that subsection of section 331, which you will see contains in great particularity a very large number of items of information, a subsection reading in these terms: and I am going to give you the general subsection which I propose, and then I propose, if I may, to examine some of the various headings of information contained in the bill in the equivalent subsection. The subsection I propose—and I want to make it clear that the Board already had this power—is put as a proposed subsection 2 of section 331, and appears on page 85 of the Minutes of the Special Committee:

> (2). The Board may require a company issuing a competitive rate to furnish at the time of filing the rate, or at any time, any information which the Board may deem necessary in order to enable it to determine whether such rate is reasonably necessary to meet competition and whether the establishment of such rate may reasonably be expected to enhance the net revenue of the company.

That, I say, carries out the purposes and intention of the Royal Commission. While I am on that subject, might I point out to you that the recommendation of the Royal Commission was, not that this detailed list of items should appear in the Act, but that the Board should have power to make regulations containing these items. I think that is probably important, and I will give you the reference to that. Page 86.

Hon. Mr. CAMPBELL: Just before you proceed: do I understand you to say that this section is not drafted strictly in accordance with the suggestion of the Royal Commission, but is more the language adopted by the drafting committee?

Mr. EVANS: Well, not quite, Senator. I want to be perfectly fair about this.

Hon. Mr. DAVIS: Are we here to consider the relations between the Royal Commission and Bill 12, or to consider Bill 12 on its merits? Have we to go through the whole of the Royal Commission report and try to relate it to Bill 12?

The CHAIRMAN: Well, Senator Davis, technically speaking, we are not dealing as a committee with Bill 12 at all, we are dealing with the report of the Royal Commission.

Hon. Mr. DAVIS: We are dealing in advance of this bill coming before us. We have heard about proposed amendments coming from the other place which we do not really know anything about, officially.

The CHAIRMAN: I think it might limit discussion very considerably if we said we cannot go back to the report of the Royal Commission and review its recommendations in the light of the legislation now submitted to us. I know this was done a great deal in the proceedings in the other place.

Hon. Mr. DAVIS: I am just raising that point. Are we in the same position as the committee in the other place? So far we are just a study group, without this bill being officially before us.

The CHAIRMAN: What this committee was set up to do in its terms of reference was "to examine and report upon the report of the Royal Commission on Transportation, and especially upon the proposal to equalize freight rates and the effect of such proposal on specific areas of Canada."

Hon. Mr. REID: If Senator Davis is right, perhaps we should not have heard the Maritimes and the Winnipeg representative, because certainly they were dealing with Bill 12.

The CHAIRMAN: What Senator Davis is suggesting, I understand, is that we should confine ourselves to Bill 12 and not to go back to the report of the Royal Commission.

Hon. Mr. KINLEY: The bill is incidental to the discussion.

Hon. Mr. REID: It is so interrelated that I do not see how you can separate one from the other.

Hon. Mr. DAVIS: I have just raised the point at this stage for purposes of clarification.

Hon. Mr. HAIG: Unless we allow Mr. Evans or anybody else to take the report and take the bill, this goes by the board, and if we wait till the bill comes from the other house we will be sitting here on Christmas Day. I do not think we in this committee should take any technical objections on anything. If we do, we shall defeat what we are trying to do. We are trying in this committee to facilitate the work of Parliament. This is very, very difficult and extremely important legislation. I agree entirely with Mr. Evans: this is the most important legislation that has come under my notice since I entered the Senate sixteen years ago. It affects the railways, but I am not so interested in the railways as I am in the people of the country, who also are affected by it. If Mr. Fillmore was right the other day—and I think he was—it is setting up a new system altogether; and if there is anything the Senate is supposed to do, it is to be careful that every part of Canada gets a fair deal. I think that is what we are here for; and without considering both matters, as Mr. Evans is doing, I cannot come to a judgment. I have very great respect for the Royal Commission, and I want Mr. Evans to show me that his suggestions are carrying out equalization of rates.

Hon. Mr. REID: Is not this bill founded on the Royal Commission's report? I cannot see how you can separate the two.

Hon. Mr. HAIG: I cannot, either.

Hon. Mr. KINLEY: It seems to me the amendment suggested by the witness interprets the way he would carry out the findings of the Commission.

Hon. Mr. REID: That is it.

Hon. Mr. KINLEY: And that the bill goes more into detail; and his general argument is that the control is too specific, and he wants it loosened.

The CHAIRMAN: The particular point to which he is addressing himself at the moment, I understand, is that this particular section, in the details in which it goes into, is not carrying out the recommendation on that particular point which the Royal Commission made.

Hon. Mr. KINLEY: That is the point.

The CHAIRMAN: I suggest that Mr. Evans be allowed to develop this argument.

Mr. EVANS: I have a question to answer, Mr. Chairman, from Senator Campbell. The items of information that are contained in section 2 under those eight numbered headings appear in the Royal Commission's report. I am going to point out to you—

The CHAIRMAN: That is on page 86?

Mr. EVANS: That is on page 86. I point out to you that those are items of information which may be contained in the Board's regulations. There is nothing said about putting them in the statute. The paragraph at the bottom of the page makes this clear. It speaks of the Board as already having some regulations with respect to competitive rates.

Hon. Mr. REID: As a matter of fact the recommendations of the Commission have been copied exactly in this bill.

Mr. EVANS: Yes, but in the form of legislation rather than in the form of regulations. That is my point. "The Board has already some regulations with respect to competitive rates, and it is suggested, in view of the complaints which have come before the Commission, that these regulations should provide that whenever the railway files a competitive tariff or an amendment thereto, it shall simultaneously supply the Board with information similar to that now filed on with applications for the approval of agreed charges." The recommendations with regard to legislation is contained on page 87 in these terms:

> The Railway Act should be amended to give the Board powers to act as suggested herein.

My respectful submission is that my amendment gives them powers in general terms to ask for any information. In some cases it will be impossible to get this information, and there may be a suggestion that unless we can give it we ought not to have a competitive rate. Now, then, the entire issue, as far as the Canadian Pacific Railway is concerned, is whether the items of information which the Board may require should be spelled out in the statute. I think I should examine perhaps a few of the items.

Hon. Mr. KINLEY: Is there not any significance in the fact that the Board may only require information in a very unusual case? That section might seldom be invoked unless the Board requires it.

Mr. EVANS: That was used against me in the other place and I should like to tell you just what happened. Actually I took the position that if these items were spelled out in the bill we would find people coming before the Board and saying, "Here's what parliament thought of this and here's what the Board should do to carry out its duties to parliament". It is true that it is discretionary, but parliament has imposed some kind of duty on the Board, and I did not have to wait very long before I got confirmation of that because counsel for Alberta, at page 161 of the Minutes of Proceedings of the Special Committee of the House of Commons on Railway Legislation, said this:

> But Mr. Evans argues that with this list of requirements before the board, as representing the intention of parliament, the board would be more inclined to require this specific piece of information or that specific piece of information than it would under the general basket-like section now in force or under the equally basket-like section the Canadian Pacific proposes in lieu of Section 331. It is quite likely that the board would be so inclined. Some of us might be there suggesting that the board implement the intention of parliament as expressed in this section. Let there be no misunderstanding about that.

Hon. Mr. REID: Section 332 simply says ". . .the burden of proof justifying the proposed advance shall be upon the company filing the tariff". Now, are you called upon to place the same information before the Board in regard to a proposed advanced rate when you are asking for a competitive rate under section 331?

Mr. EVANS: No, sir.

Hon. Mr. REID: Well, that seems strange.

Mr. EVANS: The theory of this is quite clear. This section is born of the feeling that the railway will make too low rates and lose money on them, and this is born of the desire to see that the right of the railway company to make competitive rates is more carefully policed because they fear we are making these rates on a non-competitive basis.

Hon. Mr. REID: Well, one wonders just what is meant by compensatory.

Mr. EVANS: I think our amendment makes that whole matter pretty clear.

Hon. Mr. Paterson: Would clause 8 enable the Board to hold you up indefinitely? It reads: "Any other information required by the Board regarding the proposed movement".

Mr. EVANS: Yes, I think it would.

Hon. Mr. PATERSON: I think it is a dangerous clause.

Mr. EVANS: Well, sir, there are more dangerous ones preceding it. I want the Board to have discretionary powers. I do not argue about that. If I have a case to put before them I go and argue it, and I do not think that they are going to be perverse with me. I think they can even now ask for any information. If somebody goes before the Board and says that this rate is not compensatory to the railways, the Board can call upon us to justify that rate, and they can ask us for any kind of information to support that issue.

Hon. Mr. KINLEY: Do you not think that this section is vital to the Canadian Pacific Railway as a private enterprise? Do you not think it is very salutary for the Canadian Pacific Railway to have such a section?

Mr. EVANS: It is going to be a very difficult thing to make competitive rates in the future.

Hon. Mr. KINLEY: That is not the question. You have been asked why there is legislation prohibiting you from making a low rate. Now, you are not the only railway in Canada; some other railway under pressure might make a rate that you cannot compete with, and it seems to me to be salutary for a private enterprise to have this section.

Mr. EVANS: As a matter of fact, if the other railway wanted to make a competitive rate they could make it very difficult for us, but I do not think that railway would have any more right under the Railway Act to make non-compensatory rates than we have.

Hon. Mr. KINLEY: Well, the section is all right.

Mr. EVANS: As I am saying to you, senator, I have no objection to the Board having the power to police our competitive rates. I have no objection to letting them test the validity or the propriety of our action.

Hon. Mr. KINLEY: What is your real objection to this section then?

Mr. EVANS: May I come to that later?

Hon. Mr. KINLEY: Yes.

Mr. EVANS: May I point out to you the kind of information that the Board may ask us to produce. The first one is: "The name of the competing carrier or carriers". I do not want to spend too much time on this but it will be seen that besides licensed truck carriers, there are literally hundreds

of thousands of private carriers and so-called contract carriers. They operate all over. A man may carry his own goods and we may be competing with him. We do not know how many are doing the carrying of that particular commodity. It would be a tremendous thing to get the names of the competing carriers. Then, look at clause (ii): "The route over which competing carriers operate". I do not know how the route helps them. It may be deviating from the railway route, but it may cover the same points, and it may be that some of them do not operate on the same routes at all and only operate when they have their own goods to carry or when they have a contract with some shipper whose goods are to be carried. They have not got regular routes. Then, look at clause (iii): "The rates charged by the competing carriers with proof of such rates as far as ascertainable". There are a great many cases where we could not possibly give that proof; we get called by a shipper and he says, "Tom Jones operates a truck service and he has quoted us a rate of 50 cents. Can you meet that competition?" Well, Tom Jones may quote a rate of 50 cents but there may be fifty other carriers quoting different rates. They do not publish them.

Hon. Mr. REID: It is not wrong for the Board to ask for this information but is it mandatory for you to supply it?

Mr. EVANS: Well, if you spell that out in the statute, the Board, on the intervention of somebody who is opposing us—just as Mr. Frawley for Alberta forecast—will be inclined to say, "Well, parliament intended that we get that information and we will ask the railway to supply it".

Then we come to some difficult points. Take clause (iv): "the tonnage normally carried by the railway between the points of origin and destination". Now, does that mean before we had truck competition? That may be in 1920. Does it mean now? I do not know what "tonnage normally carried" means, and I do not know what "normally" means because it might be that we would have to show over a period of years what traffic we had in fact carried, and I doubt we could show the Board what we normally carried because we do not know what we carried perhaps back in 1920 when this truck competition began. Now, then, look at clause (v): "the estimated amount of tonnage that is diverted from the railway or that will be diverted if the rate is not made effective". I do not know how we could supply that information. We might be able to make a guess. We do not know how much is being diverted or how much is new traffic. How could we know that?

On that question of what will be diverted, I would point out that a competitive tariff is not like an agreed charge, where you have a contract with a shipper to ship a certain quantity of goods. The shipper may or may not ship under the competitive tariff; there is no guarantee that he will use it at all. We do not know how much will be diverted if we do not make a rate, nor do we know how much will be diverted if we do make one.

Now take clause (vi):

> the extent to which the net revenue of the company will be improved by the proposed changes.

If you cannot tell the tonnage you are going to get and you cannot tell how how much is being diverted, I venture to state that it is completely and utterly impossible to tell the extent to which your net revenue is going to be improved. Now with the agreed charge under the Transport Act, which according to the Royal Commission was the pattern they intended, we are only asked to show the "effect" on our net revenue, not the "extent" of the effect. Under an agreed charge you have a specified proportion of the traffic and you can calculate how much traffic you are going to get. You can analyse your railway costs and tell the effect in general terms on your net revenue. But even with an agreed charge it would be difficult to tell the extent of the

effect. You do not get a positive guarantee of so many tons of traffic under an agreed charge; you only get a specified portion of the shipper's traffic. But under a competitive rate he does not agree to ship anything, and he may not ship anything. A hundred shippers might decide to use a competitive tariff one week, and next week not one of them might use it. So how could we tell the extent of the effect on our net revenue? If the Board is to be given power to get any information that may enable them to test the propriety of the judgment of the railway officers in making these rates, I have no objection, but I do not want to be subjected to innumerable delays while we are out scrambling to get all this information.

Hon. Mr. REID: I notice that on page 86 of the report of the Royal Commission on Transportation there is this recommendation:

> The Board already has some regulations with respect to competitive rates and it is suggested, in view of the complaints which have come before the Commission that these regulations should provide that whenever a railway files a competitive tariff or an amendment thereto, it shall simultaneously supply the Board with information similar to that now filed with applications for the approval of agreed charges.

Apparently there is a provision in the Railway Act authorizing the Board to get this information.

Mr. EVANS: In the Transport Act, senator, there is a provision by which a railway can make what is called an agreed charge, which is a contract with the shipper.

Hon. Mr. REID: Then all this information has to be filed, I take it, because the Commission enumerates everything you are discussing here.

Mr. EVANS: No, sir.

Hon. Mr. REID: The paragraph from which I was reading goes on to say:

> This information includes (*a*) the name of the competing carrier or carriers; (*b*) the route over which they operate; (*c*) the rates charged by the competitors with proof of such rates as far as ascertainable; (*d*) the tonnage normally carried by the railway between the points of origin and destination. . .

I need not read it all, but it goes on to specify information similar to what you are discussing.

Mr. EVANS: Yes, but in the Transport Act there is nothing dealing with agreed charges that goes into the detail to which that paragraph goes. May I respectfully suggest that what the Royal Commission had in mind was that the Board's regulations should contain requirements similar to those when making an agreed charge; but I am pointing out to you, sir, that the statute under which agreed charges are made does not spell out a lot of information like that. Instead it uses general words such as I have used, dealing with the effect of the making of the charge.

Hon. Mr. CAMPBELL: Mr. Evans, I take it you would have no objection to the statute's providing in principle for complete approval by the Board of competitive rates and spelling out all the Board's powers to make regulations, as contained in section 331, if the Board thought such regulations were necessary?

Mr. EVANS: No, senator. I think the Board should have the widest possible power.

Hon. Mr. BAIRD: You would like to have the Board's powers as broad as it is possible to make them?

Mr. EVANS: Yes, senator. I have no objection to that. I know the Board will not ask us for all that information if they know it is impossible to get it.

Hon. Mr. KINLEY: What difference does it make to you whether the requirement to furnish the information is specified in the regulations or in the Act? You have to comply with the regulations.

Mr. EVANS: That is true, sir, but my point is that if parliament sees fit to specify a whole list of information the tendency is for people appearing before the Board to argue that parliament intended the Board to exercise its discretion to order that information.

Hon. Mr. KINLEY: Of course, parliament does not make it obligatory upon the Board to require all that information; it simply says that the Board may require it.

Hon. Mr. PATERSON: But Mr. Evans has already pointed out that Alberta wants to have the Board order the railways to furnish all the information.

Hon. Mr. KINLEY: The Board has the discretion to order information or not.

Mr. EVANS: I agree, sir, that it is in the hands of the Board, on a strict interpretation. I would not deny the right of counsel for Alberta to come before the Board and ask that the railways be directed to produce this and that information, but what I am afraid of—and I have seen this happen so often—is that when a statute specifies certain information which the Board may require before handing down a decision, the Board is likely to feel that it is acting in accordance with the wishes of parliament if it orders the railways to furnish the information.

Hon. Mr. REID: In other words, the Board is likely to look upon the provision in the statute as a direction?

Mr. EVANS: Yes, senator. I believe that when Mr. Fillmore was before you a couple of days ago he took the position that the word "may" as used in one place in this bill is a directive, and I am inclined to agree with him.

Hon. Mr. CAMPBELL: I am inclined to agree with your contention entirely, Mr. Evans. Mr. Jefferson may recall that in a certain agreed charge case in which I appeared a number of years ago there was an insistent demand that the Board procure the information which the statute specified the Board may require.

Mr. EVANS: I believe that was the case in which you gave us such a trimming, senator.

Hon. Mr. CAMPBELL: Well, the results were very satisfactory. It seems to me there should not be much objection to leaving in the hands of the Board the discretion to require this information in such form as may be satisfactory to them. Mr. Chairman, I was wondering whether we might have an expression of Mr. MacNeill's opinion on this.

The CHAIRMAN: I was just going to suggest that myself. As I see it, from a strictly legal point of view the section could end at the end of clause (c), that is, at line 17 on page 4 of the bill, in which event the Board would be left with the discretion to order the railways to furnish whatever information it requires. Is that your view, Mr. MacNeill?

Mr. MACNEILL: Yes. If you leave it, the Board will then have the authority to require any information that they want.

The CHAIRMAN: Including this?

Mr. MACNEILL: Including this, if they want it.

The CHAIRMAN: From the point of view of strict draftsmanship, this is really unnecessary.

Mr. MACNEILL: It depends on what is wanted. If you want to direct the Board's attention—and I think this is what Mr. Evans fears—to these eight

subjects, the Board will conclude that parliament has directed its attention to those subjects, and the information should be supplied. I think that is what Mr. Evans had in mind.

Mr. EVANS: Yes.

Mr. MACNEILL: That is probably what will happen. This language is no doubt permissive, and a strong Board would say: That is unreasonable. But Mr. Frawley from Alberta might say—I use him as an illustration because Mr. Evans mentioned him—parliament has indicated certain things to the Board; this is a direction of parliament, that the Board secure or require the railways to secure this information, and therefore before a decision can be given the Board should carry out the direction of parliament. Of course, whether the Board would accede to that argument, is a matter for the Board to say.

Hon. Mr. REID: May I ask Mr. Evans if when his company decides to make up competitive rates, does it simply file its intention to do so without any control being exercised?

Mr. EVANS: No; I do not want that impression to be created. Subsection 1 provides that we can put competitive rates into effect without prior notice. The present Act is also very liberal in that respect. What I now want to say, and I would make it perfectly clear, is that the Board has the right and, indeed, the duty to make sure that we do not make rates that are losing money, for the reason that that lost money has to come from somebody else. It is their duty to see that a rate is not unreasonably low, just as it is their duty to see that the rate is not unreasonably high. Its powers to make just and reasonable rates are unhampered by this section. I am most anxious to make clear, if any doubt exists, that the Board can police these competitive rates.

In view of the Chairman's remarks, I think I might be permitted to point out a further matter, as to the retaining of the section and the eliminating of the eight items. Another question arises under paragraph (*a*) of subsection (2), at line 14, on page 4, where these words appear "the competition actually exists". That is a difficulty which, I think I can say with some assurance, is now developing in the United States. It is an attempt to limit the right to make competitive rates to where competition actually exists. We think it should apply to where the competition is potential, although not just remotely potential.

The CHAIRMAN: You would like to use some such words as, "actually exists or is threatened"?

Mr. EVANS: Yes. The word "potential" is often used. I should like to give you a reference to a text writer who has discussed the question in the United States.

Hon. Mr. DAVIS: Pardon me Mr. Evans, but how would you prove potential competition?

Mr. EVANS: Let me put it this way: We have for years been meeting competition via the Panama Canal, and we have a number of transcontinental competitive rates for that purpose. We know that the moment a ship or a line of ships feels that they can usefully get into that trade, they will do so. In fact, they have done so sporadically; there was at one time an intensive interest in the trade, but we have met them. We do not charge quite as low a rate as they charge, but we give faster service. We have pretty well kept down that competition to only the casual ship. I say that, although there may be no ship operating this summer, there is still potential competition, and every time a new ship decides to enter the trade it has the facilities there and is ready to go. If we let it get established before we can meet the competition. it may then be too late. That is the point raised by this text writer in the United States, as to the difficulty which results from the use of the word "actual".

Hon. Mr. DAVIS: How could we ever get any equalization in the matter of competition if both actual and potential competition were recognized?

Mr. EVANS: Equalization?

Hon Mr. DAVIS: Yes, between east and west, say.

Mr. EVANS: Equalization, in the present terms of the Royal Commission and in the bill, excludes competitive rates, because there is justification for competitive rates only when competition is met; if there is no competition, then they are discriminatory. Now, competitive rates cannot be equalized with normal rates, and they obviously refer only to particular conditions that require that a rate be made for the purpose of keeping traffic on the railways that would otherwise be moved by competitors.

Hon. Mr. DAVIS: I think that the central provinces enjoy better competitive rates than do the western provinces, especially in view of the fact that three-quarters of the profits of your railway come from the prairie provinces. If the railway is allowed to establish competitive rates on potential competition, we will never have equalization.

Mr. EVANS: I want to say that I am not opposed to equalization, but I do not think that if we put in competitive rates in eastern Canada we should also put in equivalent competitive rates in western Canada, even where no competition exists. I say most assuredly that when western Canada develops, as it is going to develop, we will have a new and growing competition on the roads. I think you are going to have the benefit—if you can call it a benefit—of that competition in an increasing degree. I should like to say also that there are in western Canada now competitive rates, particularly between Edmonton and Calgary, and that they are lower than any competitive rates in eastern Canada. That is because the competition is there. I predict that the competition is going to grow in western Canada by reason of the roads that are being constructed.

Hon. Mr. DAVIS: You have referred to the hardsurfaced road between Calgary and Edmonton, but the remainder of the highways in western Canada have, in my opinion, deteriorated rather than improved over the past fifteen or twenty years. There is no competition in Manitoba or Saskatchewan, because there are no good roads. You point to Edmonton and Calgary, which has about the only hard-surfaced road in that area. The cost of highway transportation is increasing, and I think we can expect no relief from competition in that regard.

Hon. Mr. REID: I agree with the witness. I think that when the Trans-Canada highway goes through the railways will have a very tough time to compete with the trucks, if one may visualize the same thing as is happening in the United States.

Hon. Mr. DAVIS: You will not have for another generation a Pennsylvania Turnpike going through Canada. I refer to the Pennsylvania Turnpike as the outstanding highway in North America, as regards competition with railways. And your Trans-Canada highway is not built yet.

Hon. Mr. REID: It might be competitive in some parts. It might not as far as Quebec or the East is concerned, but as far as Winnipeg and we in British Columbia are concerned, we know that the truck men are anxious to get into the prairie provinces, and will do so once the Trans-Canada highway is built.

The CHAIRMAN: Senator Davis, is not the question on this point really this. Supposing a new hard-surface highway is in course of construction between, let us say, Winipeg and Dauphin. As the matter now stands, the railway company could not establish a competitive rate between those two points until the highway was actually in operation and trucks moving over it. As the witness suggests, if they can see that the competition is about to take place, then they could establish a competitive rate between those two points before the highway comes into operation. Is not that the only difference?

Hon. Mr. HAIG: And another case in point is, just as soon as we have a proper highway between Fort William and Winnipeg we are going to have competitive rates.

Hon. Mr. DAVIS: Have you ever been over that highway?

Hon. Mr. HAIG: I am not saying "now". I do not agree with my friend from Manitoba. I think our highways are going to be in better shape in ten years from now than we ever imagined they could be.

Hon. Mr. REID: So do I.

Hon. Mr. HAIG: And with the boats coming to Fort William, and trucks running from there to Winnipeg, the railroads will have to face the effect of that competition.

Mr. EVANS: We have put in rates recently to meet competition on the highway between Fort William and Winnipeg.

Hon. Mr. HAIG: And it will be more intense.

The CHAIRMAN: Your only point is that you should be able to put in competitive rates before the competition comes into effect?

Mr. EVANS: Yes.

Hon. Mr. BAIRD: In other words, you should be allowed to run your own business.

Hon. Mr. PATERSON: Before I go, I would like to express myself very much in favour of Mr. Evans' correction of that clause. I think it is much more simple, and it gives the company the chance to make a rate in a hurry, otherwise they might be held up indefinitely.

Hon. Mr. HAIG: Just before you go, Senator: this simply means that this is a protection for certain districts, that you can give too low a rate.

Hon. Mr. PATERSON: Exactly.

Hon. Mr. HAIG: I do not see why we should stop the giving of too low a rate.

Hon. Mr. REID: Except that he says what he gives too low to one man he must charge to another.

Hon. Mr. HAIG: It is against equalization, but we should not make it impossible to give a low rate if it is necessary to give it.

Hon. Mr. REID: When you are speaking of competition you are thinking of competition by truck, water and air, not between one railway and another? There is no competition between railways.

Mr. EVANS: I am going to show you some cases under another section where there is railway competition, a feature well known to the Board, and it really does involve competition of a very substantial kind. But, if the committee wants to hear it, the Royal Commission made some very cogent and important statements about the right of railways to meet competition, and I think it would be worth while putting them on the record.

Hon. Mr. REID: What page?

Mr. EVANS: Page 84, is the first reference. One of the things that I think is sometimes overlooked is that as we have a duty to carry all traffic, we make low rates on low-value commodities and higher rates relatively on higher-value commodities. This is what the committee says about that:

> A rate structure emphasizing low rates on low grade articles and high rates on high grade articles leaves the railways in a particularly vulnerable position.

There is another reference at page 265: They say this:

> Conditions seem to indicate that these losses to the railways by reason of truck traffic can be expected to increase as time goes on.

Again, at page 266:

> It is evident from the facts set out in this chapter that motor vehicles, mostly under provincial control, constitute a most serious form of competition to the railways. It also seems likely that this competition will increase in strength with the progress made in highway development.

Now, gentlemen, I think it is important to note the view of the Royal Commission. At page 86 they state this:

> The Railways should neither be denied the right to meet competition nor, when once they have decided to publish competitive tolls in one area, be forced by law to apply these same tolls to other regions where competition between transportation agencies is non-existent.

That lays down what the Royal Commission feel about this right of the railways to meet competition.

Hon. Mr. REID: On page 84 it says, "the Railway Act of 1903 recognized competition."

Mr. EVANS: That is a different kind of competition. I think as a matter of fact, with respect, that is a true statement, because it must be remembered that the Great Lakes and the St. Lawrence in Eastern Canada were the only means of transportation before there were railways at all. Transportation by water was there long before the Grand Trunk went in. There is no doubt that the whole rate structure of Eastern Canada reflects that very thing. It is certainly reflected in the rates in the United States; and the rates in the United States in turn influence the rates in Canada. There was that element always present when the railways began. There were ships operating on the lakes, carrying freight.

Now, on this question of "actual", if the committee desires to hear more about it, I would like to refer the committee to a book by Professor Locklin, which is very lucidly written, on the subject of the economics of transportation. Professor Locklin was called as a witness for Alberta before the Royal Commission, not on this point, but on other points. In his book, on page 551, he is dealing with this question of actual or potential competition, and this is how he puts it:

> A second amendment—

That is, of the Interstate Commerce Act.

> —in 1920 provided that the Commission was not to authorize a lower rate to a more distant point on account of 'potential' as distinguished from actual water competition. There has been some difficulty in interpreting this requirement. When there is a substantial movement of commodities by water, there is no question but that the competition is actual. When water transportation facilities are available, but actual movement by water routes is absent or negligible in quantity, there is some question whether the competition is actual or merely potential. The Commission has held that an actual movement by water is not essential to make the competition actual. It is sufficient that facilities for such movement are readily available.

Indeed, the author says in the next paragraph that although it should not be possible to argue that remotely possible competition should be the basis for relief under the Interstate Commerce Act, ". . . there is some degree of absurdity in a rule which encourages investment in waterways, docks, and barges, merely for the purpose of bringing about a reduction in rail rates that cannot be lawfully accomplished until such investment is made". You see, he puts it this way, that if you must have facilities built and ready to go, the investment has to be made before the railway can meet it, and then the railway meets it and perhaps these facilities are wasted. So he says that

there is a certain degree of absurdity in using language which they have to stretch beyond its ordinary meaning, and they have used the word "actual".

Hon. Mr. KINLEY: How can you make a rate, which is a figure, when there is a potential hazard? The word "potential" would be a bit absurd.

Mr. EVANS: There would have to be some justification made to the Board. My amendment does not use either the word "actual" or the word "potential". I was only speaking to the point raised by the Chairman, and saying if you were to drop the number of items from subsection (2) pertaining to what might be called for, you would still have the word "actual" left in (a).

Now, then, I think I need not do more than mention the other feature that I think is particularly interesting to Senator Reid—this question about rail competition. Competitive rates as established by the railways comprise not only rates to meet unregulated motor and water competition, but they also comprise competitive rates in two additional categories. The first deals with competitive rates to meet the short line mileage of other railways, and the second deals with market competitive rates. Section 331 as is now drafted applies to both of these kinds of competitive rates. As to competitive rates to meet short line mileage, an example of this will serve to illustrate the point. Between Toronto and Sault Ste. Marie, Ontario, the mileage by way of the Canadian Pacific is 439 miles, via Sudbury and direct to Sault Ste. Marie. On the other hand, the Canadian National route is via Sudbury to Oba, thence via the Algoma Central to Sault Ste. Marie. The combined Canadian National and Algoma Central mileage for this route is 780 miles, or 341 greater than that of the Canadian Pacific route. Since rates are established on the basis of mileage, the normal rate on the Canadian Pacific, reflecting its shorter mileage, will be very much less than the normal rate of the Canadian National-Algoma Central route, with its greater mileage, and this will apply to all commodities and classes of traffic. If the Canadian National and the Algoma Central are to participate in the large amount of traffic moving between Sault Ste. Marie, Ontario, and Toronto, they must charge the same rate as the Canadian Pacific is able to charge on the basis of its shorter mileage. I see no reason why it should be suggested that section 331 should apply to these rates. The Board is fully familiar with them. There are lots of them and so I suggest that perhaps it is an oversight in the drafting of this section that that kind of rate was not excepted, and yet in terms it is covered. I can give you another example in the fact that the Canadian Pacific has the shortest route to Calgary from Vancouver, whereas the Canadian National must reach Calgary via Edmonton, a much greater distance. Similarly, the Canadian National route to Edmonton is somewhat shorter than that of the Canadian Pacific which must reach Edmonton via Calgary. Each railway meets the rates of the other having the shorter mileage. No one is discriminated against, whereas the industries involved have the benefit of competition and service of the two lines. Now, the Board is already fully familiar with all these cases and the practice which has been followed from the very beginning. There is, therefore, no need whatever of requiring the railways to supply a long list of items of information with regard to such cases. The Board knows the tariffs of the competing railways, knows their mileages and can quite readily compute the earnings per car mile and per ton mile at the reduced rates. Yet the proposed amendment does apply to them. Why should all this so-called police section apply to these rates?

Now, then, the second kind of competitive rate, that is to say, the market competitive rate, is one which the Commission in its report expressly proposed was to be excepted from the provisions of its recommendation as to competitive rates. I think the best example I can give you of that is that we have tin plate manufacturers in Eastern Canada and they are competing on the West coast with tin plate manufacturers from the Pittsburgh area. In order to

enable them to compete we put in a special rate to Vancouver, to let the Canadian tin plate manufacturer meet the competition from Pittsburgh. That is what is called a market competitive rate. There is another example. Iron pipe is produced in quantity in England, and iron pipe is produced in Eastern Canada. Vancouver wants iron pipe. We put in a rate that will enable the Canadian producer in Eastern Canada to get his iron pipe into Vancouver in competition with the English producer. Now, this involves competition with British or foreign producers and these are the rates which the Royal Commission says at page 86 are not to be included in the recommendation with regard to competitive rates. Their statement on this is as follows: "The following recommendations are concerned only with carrier-competitive—and not market-competitive—tariffs." Yet I am suggesting to you that this bill applies the provisions of section 331 to such rates.

Hon. Mr. REID: There is a case in British Columbia that has always intrigued me. The Great Northern carries the paper from Powell River to Vancouver, and I am informed that the Great Northern absorbs the shipping charges from Powell River to Vancouver and charges a rate which cuts out all other railways.

Mr. JEFFERSON: The Great Northern Railway applies what is called the coast rate on newsprint paper from Powell River to points in the United States such as Texas, Colorado, Iowa or wherever it goes, but they absorb the steamship proportion of the rate from Powell River to Vancouver. But we do the same thing on wood pulp form Woodfibre, B.C. to United States destinations.

Hon. Mr. KINLEY: Mr. Chairman, this market rate is a new term to me. Do you use it in the east?

Mr. EVANS: There are not very many of them.

Hon. Mr. KINLEY: You mention pipe going to England from Vancouver.

Mr. EVANS: I think pipe usually goes by water from England via the Panama Canal.

Hon. Mr. KINLEY: You use it in the West to land goods at Vancouver, but do you use it in the East to land goods at Saint John, New Brunswick?

Mr. EVANS: I think our inclination is to use it where we can get business for the Canadian producer and the railway at the same time, but whether there are cases involving Saint John, New Brunswick, I cannot say offhand.

Hon. Mr. KINLEY: I am disturbed about this expression "market rate".

Mr. EVANS: It is a market competitive rate. It is one of several kinds of competitive rates. We have water competitive rates, truck competitive rates, market competitive rates, rail competitive rates, and they are all categories of competitive rates, and section 331 does not distinguish between them.

Hon. Mr. KINLEY: They were going to take the market rates out?

Mr. EVANS: Yes.

Hon. Mr. KINLEY: Why?

Mr. EVANS: I suppose because they thought they were not rates that needed so much policing, and regarded them as beneficial to Canada in meeting competition from foreign producers.

I am very sorry, Mr. Chairman, to have spent so much time on this question of competitive rates. I did not intend to take so long.

Hon. Mr. BAIRD: It has been very interesting.

Mr. EVANS: I come now to section 332A.

The CHAIRMAN: I imagine that you will wish to spend some time on this section, Mr. Evans?

Mr. EVANS: I hope I shall not take so long on this as I have taken so far.

The CHAIRMAN: This is the really contentious section of the bill, and I am wondering whether we might not adjourn now and resume after the Senate rises this afternoon.

Hon. Mr. HAIG: That is a good idea.

At 12.45 p.m. the Committee adjourned, to resume when the Senate rises this afternoon.

On Resuming.

The CHAIRMAN: I suggest that the committee come to order. We adjourned at the point where Mr. Evans was about to commence a discussion on section 332A of Bill 12. Would you proceed, Mr. Evans?

Mr. EVANS: Thank you, Mr. Chairman. It may have been that an impression has been created that the Canadian Pacific, by its proposal to amend section 332A, had some motive of emasculating the section, or had some opposition to equalization. Well, I want to make it quite clear that that is not so. We ourselves told the public at large that we would propose to the Board equalization of class and commodity mileage scales before the Royal Commission ever sat. We did that in July, 1948, when we applied for a general increase in rates; and I can, therefore, say to you that of all those who made representations here and in the other place, I am among the very few who have not been concerned with regional viewpoints on this question of equalization.

We had, for example, on the one hand the Maritime provinces, which sought and obtained from the other committee an amendment which is intended to exempt the Maritimes completely from the provisions of this section; on the other hand, Counsel for the city of Winnipeg, who I understand has also appeared before you, argued that equalization should not disturb the existing competitive relationships. He argued that industry in Winnipeg which had been in reliance upon the existing rate structure would suffer, unless the bill be amended to reserve those relationships.

I take no position opposed to either of these. But I am bound to point out to you that equalization of those things which are now unequal is bound to increase those things which are below average and to decrease those things which are above average. It seems to me also that it is my duty to say to you that perfect equalization of freight rates is, in our opinion, impossible in this country. The third thing which I think I must say is that where you have hundreds—yes, thousands—of industries which have been built up in various localities under the existing system of freight rates, you must not expect to achieve equalization by any rigid formula or by the stroke of a pen, unless you are prepared for a very serious dislocation of industry.

Having said these things, which I conceive it my duty to say, I would state that we still believe that equalization of a very substantial kind can and should be achieved. The only question which, in our view, is relevant to this discussion is whether the legislation as drafted is best conceived to bring about this result.

The problem is not a new one. It has occupied the time of the Board of Transport Commissioners almost continuously for thirty-five or forty years. The complaint has been made that rates within British Columbia and to and from that province were higher than those in the Prairie provinces, and that the rates in the Prairie provinces were higher than those in eastern Canada. British Columbias complaint regarding the so-called Mountain Differential was removed by order of the Board in July, 1949, after several separate cases in which small reductions in the differences were made; the final order merely removed the balance of the differences.

Certain differences between the Prairie provinces and eastern Canada, particularly in the class rates, remain. By that I mean the class rates in western Canada are higher than those here in eastern Canada, particularly for the shorter and medium mileages. This refers to the commodity rates, particularly the so-called commodity mileage rates which do exist, but there are a large number of these rates which are lower in the west than they are in the east, for instance, brick and tile, pulpwood, slabs, edgings, cordwood and potatoes. Others are already approximately equal in the west with those in the east.

The complaint also was that under the Railway Act, section 314, relief is only given by the Board in cases where these differences in rates amount to unjust discrimination. That, in my respectful submission, is not an entirely accurate statement of what has been done; in all events, that is the complaint. The reason I say it is not a particularly accurate statement is that there has been throughout the past thirty-five years a very large number of decisions of the Board which have reduced differences and disparities between eastern and western Canada. This is the complaint: They say, unless we are able to show that, under section 314 of the Act, unjust discrimination exists—and I add, the complainant must show prejudice, not merely difference, and that is very difficult—we cannot succeed.

Now, what can be done to remove that complaint? I am prepared to say to you as I said in the other place, that we agree that there should be equalization of differences, even though they do not amount to unjust discrimination under the present Act.

I should like now to draw to your attention that these complaints I have been talking about are the substantial complaints that have been made for many years, and involve comparison of the rates *within* western Canada to those applicable *within* eastern Canada. I accent the word "within", because it is a vital part of my entire argument on the whole question of section 332A—that is, that the class rates and the commodity mileage rates applicable *within* western Canada and *within* eastern Canada are capable of being equalized, and it is our view that they may properly be equalized.

The rates for traffic *between* eastern and western Canada are in a very different category. With regard to these we must consider how they are at present constructed, since an understanding of that is a necessary prerequisite to an understanding of the legislation and our fear in regard to it. These rates for movements between eastern and western Canada apply in both directions from east to west and from west to east. There is, therefore, nothing which can be used as a basis of comparison with these rates, and so there is nothing with which they can be equalized. They are, strictly speaking therefore, not capable of equalization in the dictionary sense of the term, although the effect of the equalization section of the bill may be substantial in regard to the methods now used for constructing these rates between eastern and western Canada.

Hon. Mr. KINLEY: Pardon me. By "eastern Canada" do you mean central Canada to the sea, or the Maritimes?

Mr. EVANS: I am including in that context eastern Canada in the broader sense, including the Maritimes, because the point I am about to make is equally referable to them.

Hon. Mr. KINLEY: You bracket us with Upper Canada, as we call it?

Mr. EVANS: Yes; I shall later use the word "central Canada". Perhaps you would prefer I use "Upper Canada"?

Hon. Mr. KINLEY: Yes.

Mr. EVANS: I embrace all of central Canada.

Hon. Mr. KINLEY: You have put us in a rich group.

Mr. EVANS: Perhaps not all of us!

The rates between eastern and western Canada—again using the term eastern Canada in its broader sense—in both directions, and with a few exceptions, are constructed by adding together separate factors; that is to say, between Maritime points and Western Canada, they are constructed by adding together three factors, and between Central Canada and Western Canada and between Central Canada and the Maritimes they are constructed by adding together two factors. Now these three factors—that is to say, two are included in the three, there are three all told—are (i) the so-called Maritime arbitrary; (ii) the so-called Fort William basing arbitrary, applicable for all distances between Montreal and Fort William, and the same to or from all points within the triangle comprising the territory Sudbury—Windsor—Montreal; (iii) Fort William terminal rates, applicable for distances west of Fort William. Those are the three factors.

The CHAIRMAN: There is the Maritime arbitrary; the Fort William basing rate—

Mr. EVANS: Basing arbitrary; and then the terminal rates from Fort William west. So if you want to get a rate from the Maritimes to Western Canada you add the two arbitraries to the terminal rate, and you have the rate; and similarly between the Maritimes and Central Canada you have the Maritime arbitrary but not the basing arbitrary, but you add the Maritime arbitrary to the rate west of Montreal.

The Maritime arbitrary is a low flat rate for the haul east of Montreal and by and large is the same regardless of distance. It is the haul east of Montreal that takes the arbitrary. That arbitrary or flat rate is a very low rate. In fact it is, having regard to the mileage involved, the lowest of any arbitrary in Canada today. It is used only in combination with other rates to construct through rates between the Maritimes and Central or Western Canada. It does not apply within the Maritimes, it is only a factor in the through rate.

The Fort William basing arbitrary is another flat rate applicable to all points in the triangle I have described—Sudbury—Windsor—Montreal, and is the same for all points in the triangle. Like the Maritime arbitrary, it is used only in combination with other rates to make through rates. However, it is not used in combination with the Maritime arbitrary in making through rates between Central Canada and the Maritimes. It is used and used only in making through rates between Central Canada and Western Canada and between the Maritime Provinces and Western Canada.

Now, then, the Fort William terminal rates are the regular standard class rates applicable within Western Canada, reduced, however, by assuming that the mileage between Winnipeg and Fort William is only 290 miles, and not the actual mileage of 420. This "assumed" mileage, as it is sometimes called, is an advantage to all of Western Canada—

The CHAIRMAN: Does it apply in both directions?

Mr. EVANS: Yes, —but it inures more to the advantage of Winnipeg than it does to the rest of Western Canada. It is as if you took out part of the railway and made Winnipeg and the whole of Western Canada closer by that 130 miles.

Hon. Mr. REID: It is really an invisible bridge?

Mr. EVANS: Yes. It is not quite as easy for the railway to operate on as an invisible bridge! Nevertheless it is a factor in the rate structure, and incidentally that assumed mileage disappears if equalization goes in.

Hon. Mr. HAWKINS: Did you say the assumed mileage disappears?

Mr. EVANS: It will disappear in the equalization. I am not quarrelling with anybody about this, I merely want to tell you all the facts, if I can tell you them.

Hon. Mr. KINLEY: Let the chips fall where they may.

Mr. EVANS: Yes.

Hon. Mr. KINLEY: Are your freight rates to Montreal, Saint John to Montreal, the same as the Canadian National from Halifax to Montreal?

Mr. EVANS: There is probably a little difference between Halifax and Saint John.

Hon. Mr. KINLEY: What I want to get at: this low rate you talk about, is that influenced by your own company with a shorter haul?

Mr. EVANS: It was. That rate to Saint John was influenced by our shorter haul to Saint John.

Hon. Mr. KINLEY: And therefore the Canadian National must give that low rate in order to compete with you from Halifax?

Mr. EVANS: Yes.

Hon. Mr. KINLEY: But they have got how many hundred miles more road?

Mr. EVANS: Well, it depends on which way you are going to Saint John. I don't know what their distance is. We are known as "the short run" to Saint John.

Hon. Mr. KINLEY: They would have 300 miles more than you into Halifax?

Mr. EVANS: Well, Halifax? I doubt if it would be 300 miles.

Hon. Mr. KINLEY: That is, Montreal to Saint John. I do not know exactly, but I was figuring on the time the train takes.

Mr. EVANS: I can have it looked up, if I may.

The bill, in section 332A, subsection (1) declares that it is the national policy that rates with the exceptions mentioned in subsection (4) shall be equal.

Subsection (2) provides that the Board "may"—this is another case where, I think "may" becomes directive—with a view to implementing that policy—that is the policy under subsection (1)—require any railways company to establish—and I would ask the committee to look at these words very carefully (a) *a* uniform scale of mileage class rates applicable on its system in Canada, such rates to be expressed in blocks or groups and so on. The accent I put on is "a" uniform scale of mileage class rates. Under (b) we have a similar language: to establish for *each* article or group of articles for which mileage commodity rates are specified, *a* uniform scale of mileage commodity rates applicable on its system in Canada—and so on. The reason I accent that is that the clear language of that section admits of only one class rate scale applicable throughout the system in Canada, and one scale of mileage commodity rates in respect of each article or group of articles where those rates are established.

Now, then, my submissions in regard to these provisions are these:

1. The use of the word "may" in the opening words of the subsection when read with the declaration of policy in subsection 1 will quite probably be construed as not merely permissive, but directory.

The CHAIRMAN: May I interrupt you there, Mr. Evans? We have had a good deal of discussion on that from other witnesses. I believe we are more or less in agreement as to what that means. I do not know that you need to elaborate on that unless you wish to.

Mr. EVANS: No, I was just going to say that I agree with Mr. Knowles. Secondly, what the Board is really directed to do under paragraph (a) in order to carry out this policy is to require the railways, each to establish a uniform scale of class rates applicable on its system, that is, throughout its system from coast to coast in Canada.

Similarly, under paragraph (b) for each article or group of articles for which commodity mileage rates are established, there are to be a single coast-to-coast uniform commodity mileage scales. It is to be observed that the use of single scales from coast to coast results in equalization of rates not only *within* regions but also in uniform rates on the same scale *between* regions.

It was and is our view that the use of single scales uniform throughout the system of a railway in Canada, requires that where rates are being made applicable to movements between Eastern Canada and Western Canada, the use of arbitraries in the form in which they are now used would come to an end. As you will remember, movements between regions are constructed by using the western scale of class rates, or the terminal class rate and arbitraries for central Canada and an arbitrary for the Maritimes. That this is the intention of the legislation is clear from the evidence of Mr. Knowles who is the Traffic Advisor to the Committee in the other place and who was also Traffic Advisor to the Royal Commission. His evidence on that point will be found at pages 208 and 209, and I want to read an extract from page 213.

The CHAIRMAN: That is from the Proceedings of the House of Commons Committee of Friday, November 16?

Mr. EVANS: Yes, Mr. Chairman. These are questions which I think the Minister asked Mr. Knowles. "Q. Returning to equalization, is it your opinion or is it not that equalization can be worked out with arbitraries?—A. I do not think so in the territory west of Levis . . ."

Hon. Mr. BAIRD: West of Levis?

Mr. EVANS: West of Levis, because you know the other committee adopted an amendment for the Maritimes that excludes easterly.

Hon. Mr. HAIG: This section should not apply to the Maritimes?

Mr. EVANS: That is the effect.

Hon. Mr. KINLEY: It is the Maritime Freight Rates Act?

Mr. EVANS: No, sir, it is an amendment to this section which excludes the application of the section to the Maritimes. I will come to that in more detail, but at this point I do not want to put it any higher than to give the answer made by Mr. Knowles, which is as follows: "I do not think so in the territory west of Levis, which is outside of the Maritime territory. When you get in the Maritime territory that is another story, Mr. Minister". I ask you to observe these words: "I think you should have a uniform rate scale from Levis right clear through to Prince Rupert—everybody should pay the same rate and no one should be allowed a deviation from that scale without justification. That is the situation I got myself into for forty years, using one argument to justify on one rate one day, and another the exact opposite the next day. That is based on my experience".

Now, then, I am not going to be presumptuous enough to ask this committee to accept my view. I am merely putting that in for the purpose of my argument later.

Hon. Mr. CAMPBELL: Do you agree with Mr. Knowles that in the event of this legislation being passed in its present form that you must leave aside arbitraries in assigning new tariffs of class rates and commodity rates?

Mr. EVANS: Not arbitraries all told, but these kinds of arbitraries, yes. If you are going to apply a single scale then there is no longer any basis for the basing arbitrary on Fort William, because the single scale involves doing away with this triangle of Windsor, Sudbury and Montreal. The two things cannot harmonize.

The CHAIRMAN: In other words, as a practical illustration, it would mean that Windsor, for instance, would suffer very severely by comparison with, say, Toronto or even with Montreal because the detour around to Sudbury and then west and the mileage is very much greater?

Mr. EVANS: Yes. The nearer points would get an advantage and the more distant points would have a disadvantage.

The CHAIRMAN: In other words, the triangle as a traffic factor would wholly disappear and each place would be put on its mileage?

Mr. EVANS: That is what the result would be in my submission, and it seems also to be what Mr. Knowles, as a traffic man, construes it to be. I do not want to leave the remarks of the Chairman without making a further comment on it. He suggested that Windsor would suffer. We have heard that the consignee quite often pays the freight charge, and the consignee in Western Canada, if he has to pay the freight charges, will in those cases pay a higher charge. The industry suffers when you take away some average rate from it when the industry is located in a more distant point. Then I go on to say that the Maritime amendment was no doubt adopted with the view of maintaining the Maritime arbitrary.

Hon. Mr. BAIRD: What is that again?

Mr. EVANS: The amendment sought and obtained by the Maritimes was no doubt obtained with a view to protecting that position so far as the Maritimes are concerned.

Hon. Mr. KINLEY: When you speak of the Maritime aribtrary you realize, of course, that when you go out of the Maritimes you are only half way to Levis. Quebec has as much territory in that arbitrary as has the Maritimes.

Mr. EVANS: That is true, but it never operates for movements which terminate short of the Maritimes. It is an arbitrary which is added to the rate west of Montreal only on movements to and from the Maritimes.

The CHAIRMAN: But the Maritimes include the territory east of Diamond Junction?

Mr. EVANS: Yes, but if traffic originates in the territory Senator Kinley is talking about and moves to and from Central Canada and Western Canada, they do not apply the Maritime arbitrary.

Hon. Mr. KINLEY: If the traffic originates at the Gaspe Coast does that not apply?

The CHAIRMAN: Everywhere east of Diamond Junction.

Hon. Mr. BAIRD: For instance, if we were shipping from St. John's, Newfoundland, to Montreal that arbitrary is very essential to us.

Mr. EVANS: I would not dispute that, senator.

Hon. Mr. REID: In the final analysis on looking towards the future you would think the railways would suffer bit by bit in rate changes over the years when taking into consideration the truck competition. For instance, if I go to a carrier and tell him the weight of the goods that I want shipped and the number of miles to their destination, he will give me the rate. But over the past fifty years railway rates, like Topsy, have "just growed." I cannot understand the new railway rates, and very few people can. However, I do not want to argue about that point now. What I want to ask you is whether you do not think that in time you will ultimately have to meet truck competition, and that the sooner you get down to it, bit by bit, the better?

Mr. EVANS: If we can afford to meet it, we will.

Hon. Mr. BAIRD: Do arbitraries work east and west?

Mr. EVANS: Yes.

Hon. Mr. BAIRD: On traffic originating in the Maritimes and going to central Canada, say, the arbitraries would be effective?

Mr. EVANS: Yes.

Hon. Mr. BAIRD: That is, on shipments from east to west?

Mr. EVANS: It works both ways, senator, from east to west and from west to east.

Hon. Mr. BAIRD: On a shipment from Montreal, say, or from Levis, to St. John's, Newfoundland, we would get the arbitrary?

Mr. EVANS: Not on a shipment from Montreal. It is only used as a factor in constructing rates beyond Montreal.

Hon. Mr. BAIRD: That means from east to west?

Mr. EVANS: Yes, or from west to east. It works both ways.

The CHAIRMAN: In other words, a shipment from St. John's to Toronto would get the same arbitrary as a shipment from Toronto to St. John's?

Mr. EVANS: Yes, except that the westbound shipment would get the reduction under the Maritime Freight Rates Act.

Hon. Mr. BAIRD: Of 20 per cent?

Mr. EVANS: Yes.

Hon. Mr. HAIG: It would seem that we are not going to have equalization of rates, because the four Maritime provinces are going to stand on their old arbitraries, and we in the West are going to pay for every mile that we ship goods over.

Mr. EVANS: I think that in this bill there are three exceptions to equalization which did not exist before. There is the exception that takes the Maritimes out; there is the later exception in section 18, to which I am going to direct attention, which changes the rate structure between East and West as a result of a subsidy and takes it below the equal scale; and there is also the transcontinental rate section, which if it is put in is going to take down certain rates to the Prairies merely because there is competition along the coast.

Hon. Mr. KINLEY: In your submission to the Royal Commission you also referred to the proposed Crowsnest Pass rates.

Mr. EVANS: I did, sir.

Hon. Mr. KINLEY: You state that they present one of the difficulties to an equalization program.

The CHAIRMAN: That is an existing exception which it is not proposed to change.

Hon. Mr. ASELTINE: We do not want that interfered with.

Mr. EVANS: Senator, I do not want to argue that question of Crowsnest Pass rates. There is a great deal of traffic moving on those rates, and if you want the ideal of equalization, whether you change those rates or not you perhaps should take into account the fact that they exist.

Hon. Mr. KINLEY: In the west there must be a great deal of traffic moving north and south?

Hon. Mr. HAIG: No. As Mr. Jefferson knows, it is mostly east and west.

Mr. JEFFERSON: Are you speaking of grain?

Hon. Mr. KINLEY: And cattle.

Hon. Mr. PATERSON: Jim Hill built a road and tore it up, and the Northern Pacific did the same, because there was not enough traffic to support it.

Mr. JEFFERSON: There is not much north and south traffic within western Canada. We are not discussing international traffic here.

Hon. Mr. KINLEY: Of course, that is not affected by the bill. But when speaking of the freight rates picture, if a lot of your traffic is north and south it changes the whole picture. But you say there is not much movement north and south?

Mr. EVANS: No, there is not.

Hon. Mr. HAIG: Not enough to keep two engineers going.

Mr. EVANS: Would it be satisfactory if I proceeded?

The CHAIRMAN: Yes.

Mr. EVANS: In its report, at page 151, the Royal Commission expressed the view that "the use of arbitraries in the system of rate-making is an integral part of the whole class rate structure." They were there dealing with the Maritime arbitrary, but I think that their statement of principle applied to arbitraries in general.

Here is my point. Whether I am right or wrong or whether Mr. Knowles is right or wrong or whether those who want the single scale are right or wrong, I do not ask you to decide, but I say that the single scale adopted in legislation precludes the Board from deciding to use these arbitraries, and in my respectful submission that is a technical decision which parliament and committees of parliament ought not to take. In my respectful submission the Board should be allowed to decide whether these arbitraries are to be preserved or not. I am not here fighting for industries in central Canada or on the coast or anywhere else. The point that I respectfully make is that decisions on technical matters of this kind ought to be left to the Board, to be determined after they hear all interested parties, for the Board, with their knowledge and the experience that they have gained over many years, are especially equipped to make decisions on such matters.

That the elimination of the Fort William basing arbitrary will adversely affect the industry in the triangle Sudbury-Windsor-Montreal and may indeed affect consignees in western Canada who claim that they invariably pay the freight bill, is shown by a submission filed with the Commons Committee by the Montreal Board of Trade.

Hon. Mr. CAMPBELL: United States railways still use the arbitraries, do they not?

Mr. EVANS: Yes, largely in the eastern States. It is only fair to say that in the United States for the last twelve years the Interstate Commerce Commission has been trying to establish a uniform scale of class rates and that has not as yet become effective. Mr. Knowles, I think, told the Commons Committee that a lot of those arbitraries might be taken out. I myself do not know about that, but I do not want to mislead anyone, so I say that that scale may or may not go into effect. It has been twelve years in the making now. There is a rather interesting fact about equality and uniformity in the United States, and that is that an equalized classification has never yet been achieved in that country. There are three classifications over there. We have one, which we achieved under the Railway Act as it now stands, so that we have at least made a far greater stride towards equality in Canada than they have in the United States. Another point that I think is relative to this discussion as to the United States is that in that country they are not quite so fortunately situated as we are. A number of their railways are confined in their operations to the eastern United States, a number to the west and a number to the south. They may start off with an equalized scale, but I am going to suggest to you that when the financial needs of the regional groups of railways reflect themselves in increases, the equality will not last very long.

Hon. Mr. KINLEY: This class rate is wholly mileage, in all its phases?

Mr. EVANS: Yes.

Hon. Mr. KINLEY: There is no other element concerned in it, except mileage?

Mr. EVANS: Not on the class rate or commodity mileage scales; and there are rates that would not be called mileage rates. They may be called point to point rates.

Hon. Mr. KINLEY: Is there not an equalization of rates in the United States, by taking account of need against distance? For instance, one town may be 200 miles and another 500 miles, and they would get the same product for a certain price; in other words, the rates are equalized?

Mr. EVANS: You may be referring to this situation! The railways have quite often made exceptions to the percentage increase. Let me give you an example, and perhaps this is what you have in mind, Senator. Oranges from Florida find their biggest market in New York, while California producers have to ship twice that distance. The railways serving Florida want the traffic to New York, and the railways serving the California producers also want to carry the traffic to New York. A device has been hit up by which given percentages of increase applied to the rates from Florida to New York, fix the maximum increase on oranges or other fruits from California to New York. That may be what you have in mind.

Hon. Mr. KINLEY: Something like that.

Mr. EVANS: But I would not call that equalization.

Hon. Mr. DAVIS: How about the entry of fruit into Canada at a certain point and distributed elsewhere in Canada?

Mr. EVANS: We have a commodity tariff and some competitive tariffs in eastern Canada. I am not sure about fruit in western Canada.

Hon. Mr. DAVIS: During wartime a good deal of fruit came in through Winnipeg and was distributed from there east and west. How would the freight rate on that commodity operate? Would it be the same for Winnipeg as for Toronto, for instance? During wartime the freight structure was disturbed, when, as I say, a good deal of fruit came to Winnipeg as the port of entry and was distributed east and west to Fort William, Toronto and other places. Was the rate over eastern Canada the same, from that point?

Mr. JEFFERSON: I do not understand the question, sir.

Hon. Mr. DAVIS: I am trying to make clear what is existing at the present time. Bananas, for instance, come from the Mississippi Valley into Winnipeg, and are distributed east and west without any further freight charges. Does that situation still exist?

Mr. JEFFERSON: I don't know. The only thing I can say is that possibly bananas were shipped by rail, from New Orleans . . .

Hon. Mr. HAIG: Let me explain that situation. Whitefish was shipped from Winnipeg to Chicago and New York by trucks, and on the return trips the trucks brought fruit from the south, and it was distributed east and west out of Winnipeg by rail.

Hon. Mr. DAVIS: I think the fruit was brought in by car and was distributed east and west with no additional freight charges.

Mr. JEFFERSON: They may have brought bananas from New Orleans to Winnipeg, unloaded them in Winnipeg and re-consigned them to Fort William, Brandon or some other place.

Hon. Mr. DAVIS: But was that reshipment to Fort William and Brandon without any other charge being levied?

Mr. JEFFERSON: No; it would be the balance of the through rate from New Orleans. If the rate from New Orleans to Saskatoon was higher than to Winnipeg, you would pay the difference between the rate to Winnipeg and the rate to Saskatoon.

Hon. Mr. KINLEY: Perhaps the rate is the same to the two cities.

Hon. Mr. HAIG: There is very little of it done.

Hon. Mr. DAVIS: During wartime there was considerable.

Hon. Mr. KINLEY: Perhaps the rate was the same.

Mr. JEFFERSON: I would not say so, no.

Mr. EVANS: I should like to say further that the trouble arises because the bill requires a single scale uniform throughout Canada. What we suggest is that the Board be empowered, where they see fit to do so, to authorize the railways to have more than one scale; that is to say, possibly one for the west, one for central Canada and one for the Maritimes. It is necessary to have one for the Maritimes anyway, because those provinces are excepted from this provision; they will have to retain their present scale. The other scales would be equal in respect of movements within the regions; for movements between regions the application of any one of them with the addition of arbitraries should be made possible if the Board approves. If the Board should disagree with us and agree with those who argue for single scales, the Board, under the proposal we make, can still adopt the single scale. They should, however, have the right, as they now have, to authorize more than one scale.

The amendment which we offered before the committee in the other house is at page 85 of the Minutes of Proceedings of the Commons Committee.

The CHAIRMAN: That is the proceedings on Wednesday, November 7?

Mr. EVANS: Yes. If I might have the indulgence of the committee for a moment, I should like to read the two subsections as I would have them read.

Hon. Mr. KINLEY: This is in place of subsection 1 in the proposed bill?

Mr. EVANS: Yes.

Hon. Mr. KINLEY: Is that all in No. 2 in Minutes of Proceedings and Evidence in the other house?

Mr. EVANS: Yes.

Hon. Mr. HAIG: Where do you propose to put in the amendment, in section 332A?

Mr. EVANS: Section 332A (1). I am about to read our proposal:

> It is hereby declared to be the national freight rates policy that differences in rates as between various parts of Canada, although not amounting to unjust discrimination—

That was the thing they said was hard to prove.

> —within the meaning of Section 314, shall be eliminated as far as may reasonably be practicable, having due regard to all proper interests, and the Board is hereby empowered and directed, from time to time, to review the freight rate structure within Canada, with a view to carrying out such policy and to make such orders by way of revision of rates and tariffs or otherwise as it may deem proper.

Before I pass on to subsection (2), some question was raised about the language "having due regard to all proper interests". The reason I wish to refer to it is that when I mentioned a few minutes ago that we had achieved equalization in the form of a single classification uniform throughout Canada under section 322, those very words appeared in that section, and I should like to read them. This is the first subsection of section 322 of the present Act, dealing with freight classification. It reads:

> The tariffs of tolls for freight traffic shall be subject to and governed by that classification which the Board may prescribe or authorize, and the Board shall endeavour to have such classification uniform throughout Canada, as far as may be, having due regard to all proper interests.

I say that section achieves uniformity in classification, and I strongly suggest, with respect, that subsection 1 as I propose it, is quite as capable of producing equalization as was section 322.

If I may read into the record our memo with regard to subsection (2), I am going to add one or two words to it, because of some questions that were asked in the other place. It reads this way:

> (2) Without restricting the generality of subsection (1) the Board may require any railway company
>
> (*a*) to establish a uniform scale or equal uniform scales of class rates applicable on its system in Canada;

Hon. Mr. KINLEY: That means you want three?

Mr. EVANS: Yes; and the words that are added are the words "or equal uniform scales". They are added to the present subsection. This is all new, but to the same effect:

> (*b*) to equalize as between different parts of Canada, any scale or scales of mileage commodity rates applicable to the same commodity or commodities;
>
> (*c*) to revise any other tariffs or rates which, in the opinion of the Board, may reasonably be equalized as between different parts of Canada.

And I leave in subsections (3) and (4).

Hon. Mr. CAMPBELL: If I interpret your suggestions of change correctly, you wish to leave greater discretion in the hands of the Board of Transport Commissioners so that it may gradually make such changes as best fit the purpose and also to enable them to maintain the arbitraries if necessary in order to bring about equalized rates throughout Canada?

Mr. EVANS: That is our intention, and we think we have expressed it in the draft.

Hon. Mr. CAMPBELL: And you feel that the legislation as drafted in the bill would tie the hands of the Board so that it could not retain the arbitraries?

Mr. EVANS: I am afraid it would, and the traffic adviser on the other committee thinks it would destroy the basing arbitraries.

Hon. Mr. REID: In the light of the recommendations of the Commission what do you think? Will your suggestions carry it out?

Mr. EVANS: I think my suggestions will carry it out. I think there are words used in the report of the Royal Commission that may have been interpreted by the drafting committee as requiring the use of the single scale, but when I read that with the general endorsement contained in another part of the report, speaking of arbitraries and expressing approval of them as an integral part of the whole class rate structure, I think the two read together demand that, if the single scale idea is incompatible with the use of arbitraries, at least the Board should have the right to say whether the single scale or more than one scale would apply.

Hon. Mr. CAMPBELL: From a practical point of view, can you do away with arbitraries all at once in making new structures, from your experience? Can you just do away with all those arbitraries and go to a new principle or basis at once in making freight rates? Perhaps Mr. Jefferson could answer the question.

Mr. JEFFERSON: Well, you cannot do away with them all at once. I mean it would disturb industry.

Hon. Mr. BAIRD: It would be very confounding and confusing, I should imagine, to industry?

Mr. JEFFERSON: Yes. This change was not suggested solely in the interests of the railways. It is in the interest of industry, also in the interest of Canada. Because if you are going to destroy the arbitraries altogether by a mileage scale, you are going to make some increases in rates that would be absurd, out of reason.

Hon. Mr. BAIRD: Do you not think we in Newfoundland,—such an easterly point as that—would be very much discriminated against, or, not discriminated, but we could undoubtedly have many increases?

Mr. JEFFERSON: You would have very high rates.

Hon. Mr. CAMPBELL: Would not Western Canada have increases?

Mr. JEFFERSON: Yes, sir, it would. It depends whether you are going to have a scale of rates that is going to, first, preserve the revenues of the railways, and second, preserve industry. You can have an equalization scale, you can have the same scale of rates west of the lake head and east of the lake head, and then you lower the rate east of Levis, because that is in the Maritime Freight Rates Act territory. But when you come to go from one territory to the other it seems to me you have got to have exceptions.

Hon. Mr. CAMPBELL: What strikes me about the matter, it is such a technical job that a person finds great difficulty in reaching a decision, and it seems to me it is far better to leave a matter of this kind to the discretion of the Board, if the general policy is enunciated and laid down in the Act, because the Board really has been the authority to whom the railways have applied for the fixing or alteration of any rates at all times. Is not that so?

Mr. EVANS: Oh, yes.

Hon. Mr. REID: I am of the opinion that this is an attempt to equalize in the light of demands over the past twenty-five or thirty years. We thought that section 314, or some other section, and sometimes directions from Parliament itself, provided for this, but it did not, because the Board took another view. Now this is a demand to specifically state to the Board "You shall do this and this", and in my opinion—I may be wrong—that has been the demand of the people in many sections of Canada for many years.

Mr. EVANS: What I say to you is that the Board has already taken a great many steps, with which perhaps it has not been credited, to reduce disparities. I think we must be fair to the Board. In the second place, there are certain rates that in my respectful submission cannot and ought not to be equalized. I have been talking throughout, and certainly the Royal Commission makes quite a difference in its recommendation, between the mileage class rates and the mileage commodity rates. They talk in the Royal Commission report about point-to-point commodity rates; they are called special commodity rates. These are made to equalize conditions; and what the Royal Commission says about these is rather interesting, because it makes it clear that the reason that the legislation and the Royal Commission recommendations had these exceptions, and the general provisions of paragraph (c) of subsection (2), is because there are some of these rates that the Board might not think should be equalized. But if you want to see what the Royal Commission says on these point-to-point rates, you will find it in paragraph 11 on page 127, where they use these words, which rather support the language in my memo:

> It may be expected that such special freight tariffs will be brought into uniformity in so far as this can be accomplished having regard to all proper interests.

There you have those words again; and the Commission recognizes that there are certain rates that can be equalized.

Hon. Mr. KINLEY: Do express rates enter into this at all?

Mr. EVANS: I am not too clear on that, but my impression is that they do not. The sections that are being rewritten refer only to freight traffic.

Hon. Mr. KINLEY: How do you make your express rates at the present time?

Mr. EVANS: That is a problem I am not equipped to discuss.

Hon. Mr. KINLEY: Have you a free hand?

Mr. EVANS: Oh, no, we are subject to regulation by the Board.

Hon. Mr. KINLEY: By the Board of Transport Commissioners?

Mr. EVANS: Yes.

Hon. Mr. KINLEY: Have you any competition in the matters of express rates?

Mr. EVANS: Oh, yes, that is a highly competitive traffic.

Hon. Mr. KINLEY: I suppose there is the post office?

Mr. EVANS: Yes, and the motor trucks.

Hon. Mr. HAIG: And airplanes.

Mr. EVANS: Yes, it is a very competitive business. There are a lot of competitive rates in the express business. Now, then, in my first discussion I referred to the fact that section 329 would have a bearing on this, and I want to clear that up. I passed over 329 because I wanted to discuss it in this same context. Section 329 (*a*) reads: "Class rate tariffs shall specify class rates on a mileage basis for all distances covered by the company's railway, and such distances shall be expressed . . . " and I would ask you to note that word— " . . . shall be expressed in blocks or groups and the blocks or groups shall include relatively greater distances for the longer than for the shorter hauls".

Hon. Mr. KINLEY: Would you explain that: "and the blocks or groups shall include relatively greater distances for the longer than for the shorter hauls"? What is the significance of that?

Mr. EVANS: Well, if you had to publish class rates for every point in Canada you would have so many million rates you would be swamped. Your task would be enormous and you would have a completely burdensome mileage tariff, so the class rate scales start out in the lower mileages, in such a way that every place or point within a range of ten miles takes the same rate. Then after you get to 400 miles every place or point within a range of twenty miles, for instance, takes the same rate. As the mileage goes up to, say, 1,500 miles, then perhaps fifty mile blocks take the same rate, so you have these progressively increasing blocks.

There are two points in this section. The first point is that under the Railway Act today the provision regarding these tariffs says they *may* be expressed in blocks or groups and that the blocks or groups *may* increase with mileage. The first point I want to make is this. If you are going to have movements between eastern and western Canada how can you have these enormous blocks in the east for westbound traffic under a tariff which requires you to have your blocks progressively increasing with distance? In other words, under that section you are going to have a tariff, if you start in Eastern Canada, that has ten mile blocks and not the 500 mile blocks that you now have, and you are going to have the biggest blocks in Western Canada. Similarly, coming eastbound, you will have your small blocks starting in the early part and gradually increasing in the end, but it is not conceivable to me that you could operate under a provision that says you must have these blocks increasing progressively with distance and at the same time maintain these arbitrary blocks that now exist.

The CHAIRMAN: In other words, you have this enormous block now in this triangle of Sudbury, Montreal and Windsor?

Mr. EVANS: Yes.

The CHAIRMAN: Which is hundreds and hundreds of miles, and you would have to split that up into ten mile blocks to start with and go on increasing the blocks as the distance increases to the west?

Mr. EVANS: Yes. If you are going westbound today you start off with a 500 mile block right away. If you are going eastbound you might have fairly big blocks by the time you get to Ontario, but to me the whole thing is inconsistent with the use of this basing arbitrary.

Hon. Mr. KINLEY: But if the traffic hauls through the block what is the difference? Is there any difference unless it stops in the block?

Mr. EVANS: That is exactly what happens. It stops in the block or originates in the block.

Hon. Mr. KINLEY: They haul through three or four blocks?

Mr. EVANS: Yes, the Maritime rates were constructed with the Maritime block or arbitrary and then the Fort William basing arbitrary or block and then the class rates beyond so that you can have the starting point today in the Maritimes and have two of these big blocks at the very beginning of this scale. The reason that was possible was that the progressive increase in blocks or groups *may* be made by the Board under the Railway Act, and they have grown up with not doing it in these particular movements between regions; but they do apply in those regions where the classification that I claim is possible can be made.

The CHAIRMAN: It all seems to give support to what you have said before, Mr. Evans, that the basis of this legislation appears to do away with arbitraries entirely?

Mr. EVANS: I am convinced that that is the effect of it. I respectfully doubt whether the Royal Commission intended that they should do away with it.

Hon. Mr. KINLEY: Well, in so far as they are decided by statutes they cannot do away with it unless they amend the statutes.

Mr. EVANS: Yes, if you have a statute that is so rigid that the Board cannot apply them.

Hon. Mr. BAIRD: If you were a manufacturer living in Newfoundland would you do away with arbitraries?

Mr. EVANS: Well, senator, I do not want to take sides. I think I would be very concerned about it.

Hon. Mr. BAIRD: I cannot see for the life of me why we should or how we can do away with them.

Hon. Mr. HAIG: Then why do away with them in Western Canada?

Hon. Mr. BAIRD: That is your concern.

Hon. Mr. HAIG: Oh, no, in drafting legislation you have to be fair to every part of the country.

Hon. Mr. BAIRD: You are quite capable of looking after your own part of Canada.

Hon. Mr. HAIG: I am inquiring about Newfoundland; I am not inquiring about Western Canada.

If the amendment in the bill, that Mr. Evans says is in the bill, is left, the arbitraries will still apply to the Maritime Provinces. Why should Western Canada not ask for the same thing?

Hon. Mr. BAIRD: No one is objecting to them asking for it.

Hon. Mr. HAIG: You are not offering it to us.

Hon. Mr. BAIRD: No one is offering it to us.

Hon. Mr. HAIG: Yes, they have done so.

Hon. Mr. BAIRD: They are requesting it but not offering it.

Hon. Mr. HAIG: It seems that the ink is hardly dry on the bill when they start putting in exceptions. I think we should throw all the amendments out and put the bill through just as it is and let's see how it works.

Mr. EVANS: I hope we do not have that done, because we have to live under it. It would be hard to live under it. I have to live under this umbrella and I want to get it workable. I do not want to take sides in this matter but my purpose in being here is to point out that by very simple amendments you can let the Board decide these things and not have them decided by statute. If the Board hear representations from Manitoba or Newfoundland they will be free to do what they think best. But if you tell me we must have this single scale, that we must do away with arbitraries, then I think great disturbance may be caused.

Hon. Mr. REID: Do you think that the railways have more faith in judgments of the Board than the public have?

Mr. EVANS: Well, Senator Reid, I think there has been a disposition to look upon some of the Board's decisions as not being fair and proper. But I want to say that there have been just as many decisions against the railways, which the public did not hear about but which we may consider rather unfair and improper, but I do not come to parliament to appeal from the Board. I take my licking or go to the Supreme Court, if I have a case, and I think it is my duty to respect the tribunal which is given authority by statute to deal with this thing. I would not say anything in any forum that could be interpreted as a lack of respect for the Board. If there is a feeling that it is not doing its duty, nothing would please me more than to have the Board made as strong as you can make it and as judicial as you can possibly get it. I ask no more from the Board than a completely impartial and judicial approach to my problems.

Hon. Mr. REID: We have realized that the Board are operating under the Railway Act, of course. In many cases, when giving their decision, the Board have said: "This is all we can do under the Act. We are not concerned with whether certain industries may be forced to the wall. All that we are concerned with is to give our decision in conformity with the Act." Now, for the first time, the Royal Commission has recommended that the Board shall be required to do thus and thus.

Mr. EVANS: My belief, senator, is that if you have got to tell the Board exactly what it should do, there is very little value in having the Board.

Hon. Mr. KINLEY: But there is a question of where the line should be drawn.

Mr. EVANS: I agree. And I am conceding that in view of the fact that these complaints have arisen, we should have a new equalization section, one that declares a policy of equalization where it is practical to put it into effect.

Hon. Mr. BAIRD: You feel that the Board should have all the powers necessary to enable it to make what it considers is the proper decision in each case?

Mr. EVANS: I think the Board should have powers of the broadest kind, for it is, or should be, an experienced tribunal, possessing knowledge that none of us have. And, possessing that knowledge, the Board in a particular case may make a decision which is different from the decision that it will make in another case. Unless the Board is given the broadest kind of discretion, it seems to me, we might just as well not have a Board at all and go to the courts.

Hon. Mr. CAMPBELL: Mr. Evans, your point is, I take it, that parliament having constituted the Board of Transport Commissioners by statute and given them certain powers to deal with this complicated question of rate structures, we should amend that statute in such a way as to make it a workable piece of legislation?

Mr. EVANS: That is my view.

Hon. Mr. CAMPBELL: And not amend it in such a manner that it will be unworkable and tie the hands of the Board?

Mr. EVANS: I agree. And I say this, that my profession will have no lack of work if you attempt to spell things out in such detail in the Act that a legal point can be made on every statutory provision. The more general the language in the Act and the greater the discretion that is given to the Board, the less chance the lawyers will have to get into court on questions of law.

Hon. Mr. CAMPBELL: Just a question on those arbitraries. Are not the manufacturers in the Maritime provinces as vitally concerned with the Fort William arbitrary as they are with their own in shipments from the Maritimes to western Canada?

Mr. EVANS: I would think they might be.

Hon. Mr. CAMPBELL: I am thinking particularly of an attempt being made to develop an industry in Amherst, Nova Scotia. A certain concern that I know of decided to go down there, on the invitation of the Premier of the province, to make boxes for refrigerators. Their decision to go there was based on the freight rate, which they felt they could absorb, on shipments of goods to Ontario and western Canada, by taking advantage of these arbitraries. Now, if I understand the suggested changes correctly, if that company shipped goods from Amherst to Winnipeg those goods would have to bear the single class rate, established on a mileage basis from Amherst to Winnipeg.

Mr. EVANS: As the bill was originally drafted, I do not think there is any doubt about that.

Hon. Mr. CAMPBELL: And under the proposed amendment the company would probably get the benefit of the arbitrary as far as Levis, instead of as far as Montreal, as it was entitled to formerly. That is, the mileage class rate would start at Levis and carry through to Winnipeg, instead of starting at Montreal?

Mr. EVANS: I will be perfectly frank with you, Senator Campbell, and say that this amendment, which I believe was put in at the suggestion of the Maritime provinces, is an enigma to me. I cannot quite make up my mind what it means. It could mean what you say, that the single class rate would apply to everything from Levis west to Prince Rupert. Or it could mean that a new arbitrary would be established from Levis. It is certainly clear that the rates within the Maritimes are to be left alone, but as to what the effect would be on their arbitrary, I cannot help you.

Hon. Mr. CAMPBELL: Coming from Ontario, as I do, I see no reason in the world why the existing arbitrary in Ontario and the central region should be done away with. Its elimination would certainly create a great deal of disturbance between various manufacturers from Windsor to Montreal, and I agree with Senator Haig that if one arbitrary is to be left in, they all might as well be left in.

Hon. Mr. HAIG: Suppose I am manufacturing automobiles at Oshawa and wish to ship some out to the Winnipeg market. If this law goes through the way it is now, even with the Maritime amendment, I would pay the mileage rate from Oshawa to Winnipeg?

Mr. EVANS: That would be the effect of it.

Hon. Mr. HAIG: The only people who would be hurt would be those in western Canada.

Mr. EVANS: My argument really is that—

Hon. Mr. HAIG: That is a common sense argument.

Mr. EVANS: If western Canada pays freight on the—

Hon. Mr. HAIG: Senator Reid is not in the room at the moment, but I can tell you what is behind all this, and Senator Campbell ought to hear what I have to say. The people in the western provinces think that Ontario and Quebec do not pay their fair share of railway revenues, and this bill is supposed to cure that. Now it looks to me as if the reverse is to be the result: We in Western Canada are going to be soaked for the stuff coming from the east.

Mr. EVANS: I do not wish to create any impression, Senator Haig, that the inevitable result is increased rates from eastern Canada to western Canada. That may be the case in some instances, but in other instances it will be the opposite. What I am saying to you is that some latitude ought to be left to the Board, and their hands should not be tied.

Hon. Mr. HAIG: I agree with what Senator Baird has said, but my point now is that unless we are given that amendment the people of western Canada, it seems to me, must pay more money on goods coming from the east. I am not talking about Winnipeg so much now, but about those commodities that are shipped at the Crowsnest Pass rates. For instance, we ship a great deal of cattle and hogs from the western provinces. Now, we are not gaining anything, because we already have the Crowsnest Pass rates in force. It looks to me as if we will pay increased rates on stuff from the Maritime provinces, Ontario and Quebec, unless we get the benefit of your suggestion.

Mr. EVANS: I do not want to create the impression that my view is that there will be an inevitable increase in revenue from east to west; the matter will have to be worked out. What I do say is that if you want equalization within western Canada and within eastern Canada, have it by all means, but don't necessarily disturb the right of the Board to construct the rates between east and west on a similar basis to that on which they now construct them. You are bound to have some increases, if you are to have some decreases.

Hon. Mr. HAIG: I understand that.

Mr. EVANS: I want to be perfectly fair about this thing, and I don't want to put it too high.

Hon. Mr. KINLEY: There is the impression, as Senator Haig has said, that the rates in the Niagara Peninsula, by reason of truck competition, are lower than they are elsewhere.

Mr. EVANS: True.

Hon. Mr. HAIG: That is the point.

Mr. EVANS: To be fair, I think I must admit that competitive rates ought not—and certainly this bill does not change them—to be used as a standard of reasonableness for rates, because the differences which are created by lower competitive rates are the acts of competitors and not the railways.

Hon. Mr. CAMPBELL: There is not much difference between the class rates in central Ontario and western Canada.

Mr. EVANS: There are considerable differences for certain mileages. I do not wish to evade this point, but it is a very complicated business. We have in western Canada today two class rates scales, that is standard class rates and distributing class rates. Distributing class rates are lower than the standard rates. The differences are greater in the standard rates, as compared with standard rates in eastern Canada, than they are in the distributing rates as compared with their equivalent rates in eastern Canada. There are some commodities or classes which take a lower rate in eastern Canada for a certain milege, but you cannot generalize. I have in one of my books pages upon

pages of comparisons. Senator Campbell, I am here to say that those differences, as far as we are concerned, ought to be equalized and will be equalized. We have come to that conclusion, and as far as we are concerned, they ought to be equalized.

Hon. Mr. KINLEY: We talk about arbitraries, but is not the whole picture changed by reason of the class rate, the competitive rate, the commodity rate, the market rate and so on. . . In other words, you bargain in every case?

Mr. EVANS: If we have a competitor who charges fifty cents and our regular rate is seventy-five cents, we have to decide whether we will let the traffic go to the competitor, but as far as the shipper is concerned he is still going to get the fifty cent rate.

Hon. Mr. KINLEY: In other words, there is nothing standard about the standard rates?

Mr. EVANS: There is nothing standard about the competitive rates; there is everything standard about the standard rates.

Hon. Mr. KINLEY: But not much moves on standard rates.

Mr. EVANS: You must remember that close to 18.5 per cent of the traffic moves on class rates of some kind.

Hon. Mr. HAIG: Have you any other representations to make, Mr. Evans?

Mr. EVANS: I am sorry that I digressed, but I should like to point out what are my arguments on these two sections.

Hon. Mr. KINLEY: Are your arguments contained in Minutes and Proceedings of the other house, No. 2?

Mr. EVANS: They are. The only other change I would make in paragraph (a) of 329 is that in both cases "shall" should become "may".

I turn to my next point. If anything further is required on the question of equalization, I draw your attention to two amendments adopted by the Commons Committee. First, the introduction of a new paragraph (*f*) in subsection 4 of section 332A, and second, the addition of the new subsection 5 to clause 18 of the bill. I shall deal with section 18 later, but I wanted to use it in this connection; it introduces the idea of a subsidy between eastern and western Canada, which is to be applied in the reduction of rates between eastern and western Canada. I say, therefore, that there is not a single part of any movement between any two regions in Canada that can now move on this single scale. That is now provided for in the bill, because as between eastern and western Canada we have the effect of a subsidy in reduction of the scale. It is no longer a standard uniform equal scale, but is a reduced scale. With regard to the Maritimes, they have their own scale. I say therefore, if my point was sound before those amendments were made, it is doubly sound now when no movement between eastern and western Canada, or between eastern or western Canada and the Maritimes, can take place on this uniform scale.

Hon. Mr. KINLEY: You are now dealing with section 18?

Mr. EVANS: I am merely mentioning that the amendment to section 18 makes it perfectly clear that as between eastern and western Canada the uniform scale can never apply, because the rate is going to be reduced as a result of a subsidy.

I should like now to deal with transcontinental rates, which is a rather troublesome subject, and I shall try not to be too long. Under that section, where the railways have in effect, or desire to establish, transcontinental competitive rates to meet competition via the Panama Canal, they must establish to or from points throughout western Canada rates on the same commodities not more than one-third greater than the competitive rates. We gave the Commons Committee a rather extensive representation with regard to this section, and we respectfully hope that it will not pass. It is the only

section that we take that position on. We agree with counsel for British Columbia, Manitoba and the city of Winnipeg, that this section is wrong in principle, but our reasons for agreeing with them are different from theirs. Our concern is not with regional advantages or disadvantages, but with the desire to see that sound principles only are permitted to be established in the Railway Act.

The following reasons appear to us to be ample to support our position:

(1) We think that the introduction of such a principle into the Railway Act would have within it the seed from which could develop a breakdown of the entire freight rate structure.

(2) We think that the principle of the section is in conflict with the principles of equalization as contained in section 332A, or any equivalent provisions for equalization.

(3) We think the section is out of harmony with the spirit of section 331 or any equivalent section designed to assure that the Board see to it that competitive rates are at all times compensatory to the railway establishing such rates.

(4) In and of itself the one and one-third rule will cause to the railways substantial losses either of traffic or revenue, or both.

Now I will take these separately.

First, my contention that this contains the seed of a breakdown of the rate structure.

As the law now stands, competitive rates are not to be used as a standard of reasonableness for other rates. This is because it is recognized that the level of the competitive rates cannot cause discrimination to other parts of the country which have not got the competition, because the level of the rates is established by the competitor and not in the first instance by the railway. The only exception in the present law and the only exception which, in my submission, ought to be made is that if the railway chooses to meet competition at one point it must meet the same competition at another point, where the producers at both points are competing in the common market.

The effect of this bill is to establish at all points throughout Western Canada, rates which may be substantially reduced as a result of competition which is effective at the British Columbia coast ports but not at any interior point in Western Canada. In the result many reductions in rates to interior points would have to be made if the railways are going to meet the competition to the Pacific coast. Since the reduced rates to interior points in Western Canada are not in any sense induced by competition but are forced by statute as a result of competition elsewhere, threre is no doubt that persons shipping or receiving commodities that normally move at rates which are the same as the competitive commodities will be concerned to know why the competitive commodities are moving from all points in Western Canada at a lower rate than they are able to obtain.

Moreover, even on the competitive commodities, points at varying distances from the Head-of-the-Lakes in Western Canada will begin to concern themselves as to why for example Dawson Creek enjoys the same rate as Brandon, Regina, or Winnipeg when the distances of the haul are so much greater. Indeed, I referred the Commons Committee to an editorial in a western newspaper which raised this very question.

During the course of the hearings before the Commons Committee, Mr. Knowles expressed the view that these rates if reduced by the operation of the one and one-third rule under this section should not be used as a standard of reasonableness for other rates not affected by the section: and my fear is that there will be many who will content that they should be.

My second point in connection with the threat to the rate structure by the introduction of this principle is that the railways have large numbers of competitive rates between other points in Canada which do not fall within the description of transcontinental competitive rates under the section. My fear is that although this present section does not apply to such rates, it will not be long before someone will seek the application of such a principle to them. Indeed, in our view, it will be extremely difficult to suggest to you any reason why, if the principle is good with regard to transcontinental competitive rates, it should not be equally good for general application to all competitive rates.

It is for this reason and for the reasons I have already advanced that I suggest to you that the section contains within it the seeds which may result in the breaking down of the rate structure. If competition is to be used, although it does not exist at these other points, to reduce rates to other points, sooner or later all rates are going to be down on a low competitive basis, with, as I say, the destruction of the rate structure as we now know it.

With regard to the second objection, that the section is in conflict with the principle of equalization, it seems to me that this is self-evident. If you are to have, we will say, ten 5th class commodities moving between Eastern Canada and Western Canada, all taking the same rate to the same points, and you subtract from that, one or two of these commodities and apply a lower rate on them to Western Canada because of competition at the seaboard, it follows that you do have equalization, which means equal rates for equal mileage under the same conditions.

The third point: the section is out of harmony with the spirit of section 331. I point to the fact that it is the purpose of section 331 to give to the Board a greater policing effort over the making of competitive rates.

More particularly, this policy is to see not only that the rate is no lower than is necessary to meet the competition, it is also for the purpose of ensuring that the railways do not put into effect or keep in effect rates which do not add to their net revenue.

Let us suppose that a railway is faced with new competition between Eastern Canada and Pacific coast ports, and desires to establish a competitive rate to meet that competition. Under section 331 the railway would have to satisfy the Board that the establishment of the rate migh reasonably be expeced to add to its net revenue.

If, therefore, the railway were faced with section 332B and had to apply the one and one-third rule to all movements of that commodity to Western Canada, it would have to charge against the making of the new rate the loss in revenue from the reductions in rates to intermediate territory.

It follows, in my submission, that, although the rate to the coast might contribute something more than the out-of-pocket costs of handling the traffic, the collateral losses due to the reduction in rates to other points might make it impossible to meet that competition at all.

What happens in that event? Well, the railroad traffic and the western points do not get the benefit of the reduction, because, there being no rate to apply the one and one-third rule to, the western people do not get the benefit of the one and one-third rule, and that means that the railway loses the traffic.

I think I need not elaborate my fourth reason, that the section would result either in the loss of traffic or revenue, or both.

It was argued by Mr. Knowles and others to the other committee that at all events the concern was confined to a relatively small number of commodities.

I gave an example of canned goods. Mr. Fillmore for the City of Winnipeg gave an example of steel sheets. I could have added the example of iron pipe. There are altogether approximately 119 items in regard to which our traffic officers say that the one and one-third rule would operate to make reductions in rates to intermediate territory. When I say 119 items, there are hundreds of commodities included in those items, and there is no doubt that a large bulk of the traffic that is in the transcontinental rate category is involved. Mr. Knowles gave this answer to Mr. Laing, a member of the Commons Committee, in the following terms at page 211 of the Minutes of that committee: "Q. You may have only a few rates but you have all the vast bulk of the movement represented by that handfull of rates?—A. Well, I would say a good deal of it, yes."

Let me give you a few of the outstanding examples. It would require, for example, an increase in the present competitive rate on aluminum articles of 22¢ to avoid having to make reductions under the one and one-third rule to intermediate territory. On canned goods or preserves the transcontinental competitive rate would have to be increased by $1.29 to have the same effect. On iron and steel articles from 87¢ to $1.11 increase would be necessary in the transcontinental competitive rate to clear the intermediate point. Other cases range from 22¢ in the case of boilers, ranges, and heaters, to $1.29 in the case of condensed or evaporated milk, and $1.30 in the case of roofing and roofing materials.

Hon. Mr. CAMPBELL: Just that I may understand your submission, take, for instance, canned goods. You file a competitive rate on canned goods to Vancouver now to meet competition—

Mr. EVANS: Yes.

Hon. Mr. CAMPBELL:—and that rate does not have to be applied to any other area?

Mr. EVANS: No.

Hon. Mr. CAMPBELL: Now, assuming this section should pass, if you continued that rate you would have to apply the one and one-third rule to an area reaching back as far as where?

Mr. EVANS: Well, almost to Winnipeg; just west of Winnipeg at Carberry.

Hon. Mr. CAMPBELL: Then you would be confronted with the problem of rather than making reductions of rates to those inland and prairie points and so on, you might have to give up the opportunity of meeting this competition through British Columbia?

Mr. EVANS: Exactly. Let us take canned goods which are shipped in quantity from Eastern Canada to all western Canadian points. On a car of canned goods of 70,000 pounds which takes this competitive rate, moving to Dawson Creek, the loss is $1,200 a car, and on the rates to Calgary the loss is several hundred dollars a car. It would make a difference of 6 cents in the rate to Brandon, and it would make a difference in increasing amounts as you go westward.

Hon. Mr. CAMPBELL: I suppose it might in some way benefit people shipping canned goods from Ontario to Dawson as against shipping, say, from Winnipeg to Dawson?

Mr. EVANS: Of course it would, and that is one of the things—

Hon. Mr. HAIG: That Winnipeg is kicking about.

Mr. EVANS: Yes.

Hon. Mr. HAIG: We have a factory out there for canning corn, peas and tomatoes. Now, they will be seriously affected by this business.

Hon. Mr. CAMPBELL: It will put them out of business.

Mr. EVANS: I do not want to be unfair about this. One of the complaints of the western provinces is that because the rates are so high their secondary

industries cannot get established. I am prepared to stake my reputation on the assertion that the one thing that could cause the western provinces not to develop secondary industries is to have rates that are too low between eastern and western Canada.

Hon. Mr. CAMPBELL: The other point you made which I think is important enough to repeat is that if you were confined to filing this competitive rate to Vancouver you would lose the traffic to your competitor, but no one else would gain by it.

Mr. EVANS: That is right.

Hon. Mr. KINLEY: Who would be a competitor?

Mr. EVANS: As soon as we get out of this transcontinental competitive rate business I have no doubt there will be lots of ships.

I have only a passing reference to make about the remaining sections. Sections 379 and 380 require returns to be made by the railway. They are sort of companion sections to a later section, 380B. The purpose of section 380B is to enable the Board to prescribe a uniform classification and system of accounts and returns of the assets, liabilities, revenues and working expenditure that relate to railway operations. I have no objection to that at all. I think they already have the power, but the Royal Commission thought it would be better to put it into clear language. I draw to your attention that subsection (1) of section 380B which is on page 8 of the bill, makes that uniform classification and system of accounts and returns apply to railway operations. These words appear on the last line of that subsection. Now, section 379(1) reads: "Every railway, telegraph, telephone and express company and every carrier by water shall annually prepare returns, in accordance with the forms and classifications for the time being required by the Board, of its assets, liabilities, capitalization, revenues, working expenditures and traffic." My respectful submission is that since the uniform system of accounts and returns under 380B applies only to railway operations, the other two sections should also apply only to railway operations.

Now, with regard to clause 18, I do not propose to repeat the statements I made in this connection before the other committee.

The CHAIRMAN: That is the $7 million?

Mr. EVANS: Yes. We made statements and they appear on pages 79 to 82 of the Minutes. We think that our suggestions were sound and wise. Among other things we thought that "trackage" should be defined because it is not defined now. We think it is going to be very difficult for the Board operating under that section to know what constitutes the maintenance of "trackage".

The CHAIRMAN: Mr. Evans, before you proceed on that did not the Minister say that he was proposing an amendment to that section in any event? That may clear up some of these points.

Mr. EVANS: He proposed a new subsection 5, or at least an amendment by the addition of subsection 5, which is not involved in this at all. Subsection 5 provides that the amounts paid under the section shall be applied to a reduction in rates east and west. It has nothing to do with this definition. I do not want to labour that point. It is on record in the proceedings of the other committee.

Hon. Mr. CAMPBELL: "Trackage" should be defined?

Mr. EVANS: Yes, I think so. I think the meaning should be made clear.

We are not competing with anybody for the amount of the subsidy, for we simply have to pass it on. The new subsection to which the Chairman has drawn my attention, new subsection 5, points up one of the difficulties that we think exist. The amount that we get by way of subsidy is to be applied "to a reduction in the relative level of rates applying on freight traffic

moving between points in eastern Canada and points in western Canada . . .". As we pointed out to the committee in the other place, in the very nature of things a railway company may do a good deal of maintenance on a particular section of line one year and very little maintenance on it for perhaps the next four or five years, after which period of time it will proceed to do a good deal of maintenance again. So under the clause as now drafted there are bound to be fluctuating amounts paid to the Canadian Pacific each year. And since the Canadian Pacific is the yardstick line, the amount that is paid to the Canadian Pacific will be reflected in the rate structure in Canada. The amount that is paid to the Canadian National will not be so reflected, so long as the Canadian Pacific remains the yardstick line. And it seems to me that if there are to be fluctuating payments every year we are going to run into almost insuperable difficulties. If varying annual amounts are to be used to provide reductions in rates, the reductions will fluctuate with the fluctuations in the proportion of the subsidy which the Canadian Pacific receives. Now I am making what I think is a practical suggestion for avoiding these difficulties, that the subsidy be divided equally, between the Canadian Pacific and the Canadian National.

Hon. Mr. KINLEY: You suggest that there should be an equal split?

Mr. EVANS: Yes, as a practical matter.

The CHAIRMAN: That there should be simply a straight annual subsidy of $3½ million paid to the Canadian Pacific.

Mr. EVANS: Yes. And we would reduce our rates so that the freight revenue would yield that much less to the Canadian Pacific. The Canadian Pacific would not get a dollar out of the subsidy, for the public would get the benefit in reduced rates. Of course the public is also shipping by Canadian National and would benefit through reduced rates resulting from the subsidy paid to that road.

Hon. Mr. DAVIS: How would you make a division as between the freight? You do not haul the same tonnage every year.

Mr. EVANS: I think, Senator Davis, a long-term average would have to be used. The relevant information could be submitted to the Board with the request that they decide on the matter. It is not a simple matter. I feel quite badly about this section, because of its complications. I think my friend Senator Campbell, who has had a lot of shipping experience, will know what I mean when I say that this would have quite a disturbing effect on water differentials that have been fixed in this country for thirty or forty years. I am making a practical suggestion that we should define what we are to be paid for and then make some stable division, so that it will have a stable effect on the rate structure.

I have taken far too much of your time, I am afraid. However, I have enjoyed every minute of it and I thank you very much.

The CHAIRMAN: On behalf of the committee, I wish to say to you, Mr. Evans, that our thanks are due to you for the extremely able and clear presentation that you have made to us. Quite apart from any views that we may have as to your submission, I feel that it has been an education to us on the subject of the freight structure of Canada generally. Certainly, it has been to me.

Gentlemen, before we adjourn I wish to say that counsel representing Alberta and British Columbia will appear before us on Wednesday morning.

At 6.15 p.m., the committee adjourned until 11 a.m., Wednesday, November 28.

1951

THE SENATE OF CANADA

PROCEEDINGS

OF THE

STANDING COMMITTEE

ON

Transport and Communications

On the Report of the Royal Commission on Transportation

No. 4

WEDNESDAY, NOVEMBER 28, 1951

The Honourable Adrian K. Hugessen, Chairman

WITNESSES:

Mr. J. J. Frawley, K.C., Counsel for Alberta.

Mr. C. W. Brazier, Counsel for British Columbia.

OTTAWA
EDMOND CLOUTIER, C.M.G., O.A., D.S.P.
PRINTER TO THE KING'S MOST EXCELLENT MAJESTY
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1951

STANDING COMMITTEE

ON

TRANSPORT AND COMMUNICATIONS

The Honourable ADRIAN K. HUGESSEN, *Chairman*

The Honourable Senators:

Aseltine	Horner
Baird	Hugessen
Campbell	Kinley
Davis	McLean
Dessureault	Nicol
Gershaw	Paterson
Grant	Raymond
*Haig	*Robertson
Hawkins	Reid
Hayden	

*Ex officio member.

ORDER OF REFERENCE

EXTRACT from the *Minutes of the Proceedings* of the Senate, Friday, 19th October, 1951.

Ordered, That the Standing Committee on Transport and Communications be authorized to examine and report upon the Report of the Royal Commission on Transportation and especially upon the proposal to equalize freight rates and the effect of such proposal on specific areas of Canada.

That the said Committee be empowered to send for persons, papers and records.

That the Committee be authorized to sit during adjournments of the Senate.

Attest.

L. C. MOYER,
Clerk of the Senate.

96482—1½

MINUTES OF PROCEEDINGS

WEDNESDAY, November 28, 1951.

Pursuant to adjournment and notice the Standing Committee on Transport and Communications met this day at 11 A.M.

Present:—The Honourable Senators: Hugessen, Chairman; Aseltine, Baird, Gershaw, Haig, Horner, Kinley, McLean and Robertson. 9.

In attendance: Mr. J. F. MacNeill, K.C., Law Clerk and Parliamentary Counsel, and the official reporters of the Senate.

Pursuant to the Order of Reference of October 19, 1951, the Committee resumed consideration of the report of the Royal Commission on Transportation.

Mr. J. J. Frawley, K.C., Counsel for the province of Alberta, was heard with respect to the Report of the Royal Commission on Transportation, and especially upon the effect of the proposals in connection with the province of Alberta.

Mr. C. W. Brazier, representing the Province of British Columbia, was heard with respect to the said Report and especially upon the effect of the proposals in connection with the province of British Columbia. Mr. Brazier was accompanied by Mr. Maurice H. A. Glover, Economic Adviser, British Columbia.

At 1 p.m. the Committee adjourned until tomorrow when the Senate rises.

Attest.

JAMES D. MACDONALD,
Clerk of the Committee.

MINUTES OF EVIDENCE

THE SENATE

OTTAWA, Wednesday, November 28, 1951.

The Standing Committee on Transport and Communications, which was authorized to examine the Report of the Royal Commission on Transportation, met this day at 11 a.m.

Hon. Mr. HUGESSEN: in the Chair.

The CHAIRMAN: Gentlemen, we have with us this morning the counsel for the province of Alberta, Mr. J. J. Frawley, K.C., and counsel for the province of British Columbia, Mr. C. W. Brazier. The province of British Columbia is also represented here this morning by Mr. Maurice Glover, the Economic Adviser to that province. Whom would the committee prefer me to call first? Shall we call the counsel for the province of Alberta first?

Hon. Mr. ASELTINE: Start in the West and come East.

Hon. Mr. HAIG: It does not make any difference.

The CHAIRMAN: It appears to be the desire of the committee to have counsel for the province of British Columbia make his representations to us first. Gentlemen, this is Mr. Brazier, representing the province of British Columbia.

Hon. Mr. ASELTINE: Has the witness copies of his brief for distribution?

Mr. BRAZIER: Mr. Chairman, I probably should apologize that we have not a written brief for distribution. In the normal order of procedure we have always come last, and the section of the bill to which I particularly wish to address my remarks is one which has been supported by the province of Alberta and opposed by us. I have usually to direct my remarks at what has been said by the province of Alberta in support of this particular section, so it was not feasible for me to prepare a written brief until I heard—

Hon. Mr. ASELTINE: Perhaps you would prefer to have Alberta heard first?

Mr. BRAZIER: That may be better.

Hon. Mr. KINLEY: Are you for or against the section?

Mr. BRAZIER: I am against it.

Hon. Mr. KINLEY: And Alberta is for it?

Mr. BRAZIER: Yes.

Hon. Mr. KINLEY: Perhaps we should have Alberta heard first.

Hon. Mr. ASELTINE: We did not know this when it was suggested that we hear British Columbia first.

The CHAIRMAN: Then we shall hear from Mr. Frawley first.

Hon. Mr. ASELTINE: Will the witness tell us who he is and what he represents?

The CHAIRMAN: He is Mr. J. J. Frawley, K.C., Counsel for the Province of Alberta.

Hon. Mr. ASELTINE: Is he a member of the Attorney General's Department in Alberta, or just counsel?

Mr. J. J. FRAWLEY, K.C., Counsel for the Province of Alberta: I am Special Counsel to the government of Alberta. For some years I was a member of

the Attorney General's staff. I am now attached directly to the Executive Council. Since 1946 I have been engaged almost exclusively in freight rate matters.

In 1946 the first of the freight rate increase cases started and I was continuously employed in those cases, representing Alberta, and opposing the freight rate increase applications. Then when the Royal Commission was established at the end of 1948, and during the whole of the term of that Commission, I represented the government presenting the various briefs which the province of Alberta presented to that Commission. It is because of my work in connection with the Royal Commission that I assume that I have been invited to attend here. Gentlemen, as I said before the Commons Committee —I assume I may refer to it as that.

The CHAIRMAN: Yes.

Mr. FRAWLEY: As I said to the Commons Committee, I am supporting this bill in its entirety. The government of the province of Alberta and the people of the province of Alberta, without any exception and reservation, are supporting this bill in its entirety. I would not be here at all and I would not have been interested in appearing before the Commons Committee except that some people came before the committee and objected to certain provisions of the bill. Therefore, I felt I should go before the committee and defend the bill. So I am in every respect, gentlemen, defending this legislation. I heard someone say a moment ago to Mr. Brazier that if he had some extra copies of his brief it would be well to have them distributed. I have a few copies of my brief in the Commons Committee but unfortunately I left them in my office. Perhaps I should say assuming the transcript of the Commons Committee is available to this committee, that I appeared before that committee on Thursday, November 15, and everything I said there is contained in the Minutes of Proceedings and Evidence No. 4 before the Commons Committee.

Gentlemen, the first section in the bill which I should like to say something about is the section which abolishes the standard tariffs. I support the abolition of the standard tariffs principally because there will be removed from the freight rates structure, by implication at least what has been described as the approval of the standard tariffs arising out of the mere fact that they first have to be approved by the Transport Board. My remarks on this matter will be very brief. It is true that under a section of the Railway Act which is now being repealed by this bill, the standard tariffs as they were called, otherwise known as the maximum mileage tariffs, had to be approved by the Board before they came into effect. These were simply the rates which a new railway, for example, filed with the Transport Board before it commenced to do business. It is true they have to be approved by the Board. It has been contended that that prior approval constitutes a finding that they are therefore just and reasonable, and, as a matter of fact, my friend Mr. Evans, the Vice-President and General Counsel of the Canadian Pacific Railway, made that proposition to the Commons Committee. Well, if Mr. Evans was right then I say it is time that the standard rates as such go out because it is a pure fiction to say that the standard rates, the maximum mileage class rates, by reason of the fact that they have been approved by the Board—a mere formality—are therefore just and reasonable rates.

I think I need say no more on this point after I give you one example that comes to my mind, an example that I put to the Commons Committee. The standard class rate, the maximum mileage rate, the rate that is approved by the Transport Board under section 330, on coal from Drumheller to Toronto is $38.80 a ton. You will say at once that that is a fantastic rate. That is as good an adjective as any to describe it, but that is the rate that is approved by The Transport Board when it is filed. It has to be approved, under the Rail-

way Act. Not a ton of coal ever moved on that rate. As a matter of fact, many years ago a so-called normal rate of $13.10 was put in. That was quite a step down from the so-called approved rate, but not a ton moved on the $13.10 rate. Then the railways put in a rate of $8.00, and not a ton moved on that rate. And not a ton would move out of Alberta at all except for the fact that there is added into the rate which the railways set up, a government subvention. That example is only to illustrate that those rates, as the Royal Commission on Transportation found, are obsolete. They should be removed, and if we get rid of any presumption that those standard class rates are just and reasonable, that in itself, in my submission, is a good reason for their being repealed.

Hon. Mr. REID: May I interrupt to ask a question there? You are, I suppose, quoting the rates on coal eastward from Drumheller. Do the same rates apply westward to British Columbia?

Mr. FRAWLEY: Some coal moves to the west coast. I am not sure, senator, but it probably would move on a special commodity rate.

Hon. Mr. REID: It must, because great quantities go west from Drumheller.

Mr. FRAWLEY: I should not think that any coal at all in western Canada moves on the standard class rates, the maximum mileage rates. In fact, as you will see from the report of the Royal Commission, something less than 1 per cent of all the traffic on all the railways moves on those standard rates, which are now being abolished.

Now I want to say a word about section 331, competitive rates. I support this section also. The Royal Commission said a good deal about competitive rates, and as a result of their recommendations and in complete implementation of their recommendations we have section 331. The objection which the western provinces had—and we were as one about that, and the maritime provinces were as well—the objections which we presented to the Royal Commission with respect to the whole matter of competitive rates was that the administration of competitive rates by the Board of Transport Commissioners was an almost completely negative administration. The Railway Act itself has some provisions with respect to competitive rates, but in practice I think it may be said that whenever the railways in and of themselves decided that there should be a competitive rate established they simply notified the Board of Transport Commissioners that such and such a rate was being filed. There is a provision in the tariff regulations which the Board has set up, domestically in their own organization, which enables the Transport Board to require information with respect to competitive rates when they are filed, and I think it would be interesting if I read that regulation, which is No. 17 in the Tariff Regulations. It deals entirely with competitive rates, and reads:

> The filing advice covering the filing of such schedule shall be accompanied by a clear statement of the reasons for such publication, the name of the party for whom the rate was made, the rate and the name of the carrier with whom competing, the rate which would otherwise apply in the absence of such publication, and such other information as will satisfy the Board as to the *bona fides* of the action taken.

Well, notwithstanding that provision, it was our contention to the Royal Commission, that there was, as I said, a negative administration of the competitive rates.

We made no apologies for our inquiry into the competitive rate structure in central Canada, because it was our contention to the Royal Commission that the prevalence of competitive rates in central Canada meant that the railways had to go to the monopoly sections of the railway structure to find the revenue to make up the lack of revenue in the areas where the competitive rates were

so prevalent. The Royal Commission seemingly gave some effect to the general overall effect of our protests, because in the new section which has been written in compliance with the recommendations of the Royal Commission we now find that the Board has been given considerable power to regulate in a rather positive way the competitive rates. The information which the Board is now empowered to exact from the carriers may not be any more than was authorized in the few general words that I read from the existing tariff regulation, but the new section has the advantage—I call it an advantage—that it spells out the particular things which the Board is expected to inquire into in the matter of competitive rates.

Our friends from the Canadian Pacific Railway, who spoke before me in the Commons Committee—and may I say here, parenthetically— that my position is really very much like that of my friend, Mr. Brazier. I followed the Canadian Pacific counsel, and my remarks were confined entirely to answering the objections which the Canadian Pacific made to the bill; because, as I said at the beginning, I have nothing to say about the bill except that we are delighted that it has been introduced, the people of Alberta are satisfied with it, and we would like it passed without any change.

The CHAIRMAN: May I interrupt you just at this point, Mr. Frawley? I think you should know that Mr. Evans appeared as a witness before this committee and that he repeated to us substantially the objections which he raised in the Commons Committee to section 331. So we are familiar with that and you do not need to explain to us.

Mr. FRAWLEY: Thank you, Mr. Chairman. I had not seen a transcript of what Mr. Evans said here, but I assume that he said pretty well what he said before the Commons Committee. Then, I think I should say what I said to the Commons Committee by way of answer.

First of all, let me say in a substantive and positive way that I like the section, that the section now gives directions to the Transport Board. It gives the Transport Board, in a way that was not given before, the intention of parliament. That is, the section tells the Board to police the rates, and it tells the Board what means, what weapons, it has now available for policing of the competitive rates.

The CHAIRMAN: Just a moment. The objection which Mr. Evans made to the latter part of section 331, lines 21 to 37, inclusive was that this was not in effect carrying out the report of the Royal Commission, because in its recommendations, on page 86 of the report, the Royal Commission suggested that this matter of what information the Board should require from carriers with respect to competitive rates should be included in regulations of the Board, not in the statute.

Mr. FRAWLEY: Yes, Mr. Chairman, I recall that Mr. Evans made that point, that it should be left to the regulations. Well, the Government of Canada, in giving instructions for the preparation of this bill, has gone one step farther than the strict letter of the recommendation of the Royal Commission; and may I say at once that in my humble view that is an excellent step forward, because if it were to be left to regulations we would be in exactly the same position as we are in now. In other words, there would be no change. May I speak frankly about it? I think that the position of the Canadian Pacific Railway is that things are just about all right in connection with competitive rates, and that no change is necessary. May I also say—and I do not want to be apologetic about it—that the reason why I have to discuss the position of the Canadian Pacific Railway is a very obvious one. The Canadian National Railways came before the committee twice—once before anyone else had spoken—and said—and Mr. O'Donnell's words are there for the record—in the main they were in agreement with the principle of the bill; and then they came back after everybody else had spoken—

Hon. Mr. HAIG: Can you, as a businessman, tell me how the C.N.R. could do otherwise?

Mr. FRAWLEY: You mean because they are owned by the people of Canada?

Hon. Mr. HAIG: And the government administers the business of the people. How could the railway fight the government?

Mr. FRAWLEY: Well, you ask me as a businessman why I think they could not take any other position. Frankly they are to me just another railway. In my province they are the main railway in roughly half the province.

Hon. Mr. HAIG: But you did not take that stand before the Commission on rates? You fought the C.P.R. rates; and, incidentally, they admit the rates could not be made to pay on the C.N.R., because of the capitalization.

Mr. FRAWLEY: Yes.

Hon. Mr. HAIG: And that the C.P.R. rate was the standard rate.

Mr. FRAWLEY: That is so.

Hon. Mr. HAIG: Whether it has the approval or disapproval of the C.N.R., means nothing.

Mr. FRAWLEY: Let me say one more word. I do not want to be put in a position of having to argue with you. The C.N.R. carries a great deal of freight, whether it be at competitive rates or under this contentious section 332B. I put it to you, sir, that if the Canadian National can operate on the transcontinental rates, and on the rates to the interior points, without having to take out the transcontinental rates—

Hon. Mr. HAIG: But you and I have been paying the shot when the railway falls short, and it has been short, except for the war years, ever since 1921.

Mr. FRAWLEY: You are going the whole way and saying that it does not matter much how they carry traffic, because in the end the people of Canada make it up.

Hon. Mr. HAIG: Certainly, that is so.

Mr. FRAWLEY: Of course that is going to be pretty far. All I can say is we regard them as a railway, just the same as any other railway.

Hon. Mr. HAIG: Do not misunderstand me. I think the C.N.R. is headed by very capable management, but I do not think you should come to us and tell us that the C.N.R.'s approval of this bill means anything. They could not do anything else; they are appointees of the Parliament of Canada and of the government, and are under the absolute control of the government of Canada. Therefore, in all consciousness, I would not expect them to come here and raise a row about this bill. I do not think that is an argument in favour of the legislation.

Hon. Mr. KINLEY: May it not be just the opposite, that the government is representing the C.N.R.'s view, and the C.N.R., being a powerful government corporation, has a great deal of influence on legislation?

Hon. Mr. HAIG: I do not agree with that view.

Hon. Mr. REID: May I ask a question here? Perhaps it is unfair to ask Mr. Frawley about the C.P.R., but in the evidence given by Mr. Evans, he objected to section 331, and stated that they simply would not put into effect competitive rates to Vancouver; that they would go out of business if they did so. My question to you is, should this measure become law, is it mandatory to put these rates into effect?

Mr. FRAWLEY: No, there is nothing of that sort.

Hon. Mr. REID: If there is nothing mandatory about it, I am wondering what there is to it?

The CHAIRMAN: There is nothing mandatory on the railway to put competitive rates into effect anywhere.

Hon. Mr. HAIG: If Mr. Frawley would look at the evidence given here, as to the shipment of freight to Sault Ste. Marie, for instance, where the C.P.R. is 200 miles shorter, he would appreciate that the C.N.R. would surely have the right to put in the same rates as the C.P.R., and would not have to show everything else.

Mr. FRAWLEY: I would think so. Does Mr. Evans think the Canadian National would not be able to do so because of the terms of section 331?

Hon. Mr. HAIG: No, but they would be called upon to show things they might not be able to show.

Mr. FRAWLEY: If I may be allowed to go on with the answer—

Hon. Mr. HAIG: I fear that you are getting near the end of your argument on this section, and I should like you to cover a further point. What would cause a business firm like the C.P.R. or the C.N.R. to put in competitive rates, if it was not for the expressed purpose of trying to get business?

Mr. FRAWLEY: No other reason at all.

Hon. Mr. HAIG: I cannot think of any.

Mr. FRAWLEY: No.

Hon. Mr. HAIG: Then what difference does it make? If I were running one of those railways, and I felt that in order to compete with water or truck transportation, that I had to put in a certain rate, I do not think I would do so unless I really had to.

Mr. FRAWLEY: That is true. May I repeat what the Railway Commission had to say, at page 85 of its report?

> It was further contended that the Board allows the railways too free a hand to institute competitive rates and that once established, these rates are left in the tariffs long after the conditions which caused their publication have disappeared.

It is just a contest, you might say, between managerial discretion on the one hand, and regulation by the regulatory body on the other hand.

The CHAIRMAN: Mr. Frawley, on that point may I suggest to you that what you are asking is to have it made more difficult for the railways to put lower rates into effect?

Hon. Mr. HAIG: That is the point.

Mr. FRAWLEY: We certainly think that there is no such implication in this section, because the Board is empowered only to ask for this information when it is practicable and desirable. That must be kept in mind. Mr. Evans gave to the Commons Committee instances of certain classes of information that in his view would be impossible to supply. Now I say to you gentlemen, is it to be supposed for a moment that the Transport Board would request the railway companies to furnish information which the railways could not supply. The railways, in that case, would have only to demonstrate to the Board that it wasn't practicable or even desirable, and then the Board would simply not call for this further information which is set out under the Roman numerals; and it was that information that I recall Mr. Evans, when he was before the Commons Committee, was concerned with. He went over all the items under the Roman numerals, in that section, and pointed out that a good deal of that information would be impossible to supply.

The CHAIRMAN: He also did that before this committee.

Mr. FRAWLEY: The answer I gave to the Commons Committee as to that was that the railways have only to convince the Board in connection with the particular competitive rates that happen to be under consideration, that it is

not practicable and not desirable to supply some particular information. Surely nothing could afford more effective protection against what the Canadian Pacific seems to fear, a direction of the Board requiring the railway to supply information which it is impossible to supply.

It seems to me that that is the burden of the Canadian Pacific argument. The company has said that they are not afraid of the Board of Transport Commissioners having discretion. Mr. Evans said that at page 32 of his remarks before the Commons Committee. Now, I say that you could scarcely devise a section which would be more designed to protect the carrier against an unreasonable and unfair demand by the Transport Board. Further, it seems to me, with deference, that it could scarcely be left in any better position. The Transport Board, with all its years of experience and its capable officers, would not do otherwise, particularly when they have just emerged from a completely negative administration. In my submission, it is not to be supposed that by the passage of this bill they are going to demand information which the railways can show is not practicable or desirable to demand.

The CHAIRMAN: Would that not rather support the view, Mr. Frawley, that it would be better to leave this matter for the regulatory body, rather than spell it out in an act of parliament?

Mr. FRAWLEY: Yes. That certainly was the position taken by the Royal Commission. The Canadian Pacific as I said before the Commons Committee is well satisfied with the existing state of affairs. It is all contained in one section of the Railway Act, which gives the Board power to make regulations, and in that one regulation of the Board which I read to you regarding competitive rates. The Canadian Pacific says "That should be good enough, let us leave it as it is".

The CHAIRMAN: No, but, Mr. Frawley, nobody is objecting to the first part of subsection (2) of section 331.

Mr. FRAWLEY: You notice then the important words which follow the first part of subsection (2): "and such information, if the Board in any case deems it practicable and desirable". You could not get better words to give the Transport Board a discretion to say, "Well, we will not ask for that information; it is not desirable." The word "desirable" is a very broad word, especially in a statute. They will say that "it is not practicable and not desirable", and then they will not demand the information. But, it being there, I quite admit —and this is a point Mr. Evans made to the Commons Committee—some of us may be asking the Board to demand this and demand that; and that is our right; that is what we never had the right to do before.

If I do not leave you with any other consideration I would like to leave you with this, that the Royal Commission on Transportation found that all was not well, or we would not have had this report. The Royal Commission on Transportation report is going to give the people of Canada—though I do not like to use clichés—a "new deal" in transportation; and this is one of the ways it is doing it. The Royal Commission could have said, "There is a wide discretion in the Railway Act; let us do nothing about it." But they endeavoured to do something besides. So Parliament is saying to the Board, "This is to satisfy the people all over Canada except in Ontario and Quebec," —because in those provinces they are not much concerned with the freight rate structure, since never once did they appear before the Royal Commission. It is true that the Montreal Board of Trade and the Toronto Board of Trade did make submissions before the Commons committee but during the eighteen months the Commission sat, nobody from either of those Boards of Trade appeared. In any event, Parliament is saying to the Transport Board, "These people have complained that the administration of competitive rates is negative. Here are some directions to you which will take care of that complaint".

Hon. Mr. HAIG: Just look at those directions. The Board shall include questions as to "the revenue per ton-mile and per car-mile at the proposed rate and the corresponding averages of the company's system or region in which the traffic is to move" and "the extent to which the net revenue of the company will be improved by the proposed changes." How in the world can they tell that? Winnipeg is situated four hundred and ten miles west of Fort William. A highway is being built between the two cities; in five years it will be completed, and a tremendous amount of traffic will go by truck over that route. Indeed it is going now. How in the world can the Canadian Pacific Railway or the Canadian National Railway estimate how much revenue they would have if that competition was not there? They have no control over the trucking. These questions are absolutely impossible to answer until the competition is in operation, and once it has started and expenses have been incurred it will be very hard to get them to stop. That is the situation. I do not blame Ontario and Quebec for not objecting. Why should they? They have got competition.

Mr. FRAWLEY: I am not objecting to that.

Hon. Mr. HAIG: You are trying, under this, by subterfuge to say that it is impossible to prove that competition is not there, it is impossible for them to prove it is there, and therefore they must be made to pay higher rates. You may succeed, but the railways will lose the money.

Mr. FRAWLEY: I am not suggesting that any one of these is absolutely in the last analysis impossible to supply, but it might be in a particular case impossible to supply, or even not practicable to supply.

Hon. Mr. HAIG: As the Chairman pointed out, if we say that shall be put in the regulations, how does it affect you at all? I cannot see the point of the argument.

Mr. FRAWLEY: All I can say is that during the past many, many years the feeling has grown up that, because there was nothing spelled out in the statute, there was, I won't say maladministrtaion, but negative administration, which came hard upon the people of Western Canada, who are already compelled to pay such high rates.

The CHAIRMAN: The only point is whether what you are asking should be spelled out in such a way that in certain cases it might be made quite impossible for the railways to comply with it.

Mr. FRAWLEY: Yes. I will not say it is precisely the same information, but the railways do supply a good deal of information when they come to the Board to get approval of an Agreed Charge. I quite agree there is a difference there, because one or two or three industries are involved, and they are able to do some estimating. That is true. But in any event there is somewhat of a precedent there, if not a complete one. I can say no more than this, that if it should be not practicable and desirable, the Transport Board will not order it. I just cannot conceive that the Transport Board would make a stupid order and insist on compliance with an order which could not be obeyed. The alternative is to leave it as it is. The Royal Commission on Transportation, after eighteen months of listening not only to the C.P.R., but to ourselves, decided that something should be done.

The CHAIRMAN: The Royal Commission on Transportation suggested that the matter now covered in the last part of section 331 should be dealt with by regulation of the Board.

Mr. FRAWLEY: Yes, that is quite true.

Hon. Mr. KINLEY: Competitive rates usually mean lower rates.

Mr. FRAWLEY: Always, I think.

Hon. Mr. KINLEY: You spoke about the interests of the general public. Why should it not be made as easy as possible for the railway to put in lower rates if they want to?

Mr. FRAWLEY: Because this consideration arises. The amount they obtain from a competitive rate over and above actual out-of-pocket costs is sometimes not very much, but when you find the situation which prevailed in Central Canada, and then come out to our country and find we are paying very high rates, because they are made on the principle of what the traffic will bear—an accepted principle of rate-making—

Hon. Mr. KINLEY: That is competition.

Mr. FRAWLEY: That is an accepted principle of rate-making—when we find that, and find such a difference between the contribution our rates are probably making over and above out-of-pocket costs, compared with what the rate structure in Central Canada is making, that constitutes our grievance. We went to the Royal Commission on Transportation and told our story, and not on an *ex parte* basis, because much was said by the railways against it; and this has come out. As far as I am concerned I find nothing burdensome in the section, because, as I say, the Board could have done it all along. It has simply been spelled out for them in this section.

Hon. Mr. REID: Are you afraid that if the bill passes in its present form it will affect railway rates in the province of Alberta?

Mr. FRAWLEY: I think it would, sir. We have now in the province of Alberta, because of intensive truck competition on our main highways, extending from the Montana border through to Edmonton on No. 1 highway, and from Macleod, from Medicine Hat, and other sections of the province, very low rail rates. Those are due, as I have said, entirely and completely to the intensive truck competition. It may be that if somebody called on the railways to justify those rates, some of them might be thought to be too low. But that would not stop me from advocating wholeheartedly the passage of this section.

Hon. Mr. REID: Let me ask a question. Are you in Alberta prejudiced unduly at the present time in the matter of rail rates?

Mr. FRAWLEY: Rail rates generally?

Hon. Mr. REID: Yes.

Mr. FRAWLEY: We pay the highest freight rates in Canada; and for a very good reason. We are at the top of the freight rate line before it begins to descend into British Columbia because of the transcontinental rates.

Hon. Mr. REID: Do you think that this Act will give you any relief?

Mr. FRAWLEY: Yes, a good deal of relief, and that is why we are glad to see this bill come before parliament.

Hon. Mr. HAIG: In what way will it give you relief?

Mr. FRAWLEY: Well, that takes me to the equalization section. If Senator Reid was asking me to confine myself to section 331, well, that is something else.

Hon. Mr. HAIG: The reason you are getting relief under another section has nothing to do with this section?

Mr. FRAWLEY: Oh, no. I was talking about the whole bill. If Senator Reid was asking about this competitive rate section that is a different matter.

Hon. Mr. HAIG: Let us take the situation in Alberta. You tell me there is a terrific truck competition between the American border and Edmonton with the railroads?

Mr. FRAWLEY: That is right.

Hon. Mr. HAIG: Do you think that the Canadian Pacific or the Canadian National or both of them charge any lower rates than they ought to charge and still hold their base against the competition? Do you think they do?

Mr. FRAWLEY: I do not think so.

Hon. Mr. HAIG: I should say not, and if it does not apply there why does it apply in Ontario and Quebec? That is the charge you are making.

Mr. FRAWLEY: I am not making a charge. I am simply saying that there was evidence produced to the Board from which the Board concluded that there may have been instances where rates were less than they should not have been after the competition disappeared.

Hon. Mr. KINLEY: Do you think the rates charged in Ontario and Quebec have any real influence on the rates charged in your province?

Mr. FRAWLEY: Yes I do, because, after all, there is an over-all revenue that has to be obtained, and if you are getting less contribution to overhead from your competitive rates you must get it somewhere else, and you get it where the traffic will bear it.

Hon. Mr. REID: That is the way we feel in British Columbia about the proposed St. Lawrence Waterway.

Mr. FRAWLEY: Notwithstanding that, we are certainly seeking a betterment of our position, and this bill gives it to us.

Hon. Mr. HAIG: What happens to the Crowsnest grain rates under this bill?

Mr. FRAWLEY: Nothing.

Hon. Mr. HAIG: They are low, and the rest of Canada might complain about that.

Mr. FRAWLEY: The Canadian Pacific Railway brought that to the attention of the Royal Commission and asked for an investigation of those rates to determine whether they were below out-of-pocket cost or not, and the Royal Commission decided that that investigation would not be undertaken.

Hon. Mr. REID: Speaking of grain rates we had a fight that lasted for some forty years. We have always paid extra on the grain rates for the grain we use in the province of British Columbia, and for forty years we have been unable to secure any redress.

Mr. FRAWLEY: Something happened yesterday which might interest you in that regard. In the last rate increase case the Board directed that the rates on the grain for domestic consumption be not increased. The reason was this. They could not increase the Crowsnest rate so they felt and so ordered that the rates moving in domestic consumption in Western Canada be not increased. In the case presently before the Board of Transport Commissioners the railways have asked that any increase which is authorized be allowed to go on domestic grain rates, so that grain moving from Alberta to British Columbia for feed will be subject to increase for the first time since 1921.

Hon. Mr. BAIRD: Who handles the most grain over the Crowsnest Pass?

Mr. FRAWLEY: As between the two railways?

Hon. Mr. BAIRD: Yes.

Mr. FRAWLEY: I understand that in Western Canada the Canadian Pacific mileage is greater than the Canadian National mileage. I think that is right, is it not, Mr. Evans?

Mr. EVANS: I think it would be a fair answer to the senator's question to say that we carry more than the Canadian National.

The CHAIRMAN: Gentlemen, in order that we may make orderly progress I would point out that Mr. Frawley has finished, I believe, his submission on section 331. If that is so will you proceed, Mr. Frawley, with the other sections you wish to discuss?

Mr. FRAWLEY: Dealing briefly with the equalization section, section 332A, I want to say I am in favour of the establishment of one single mileage scale, which is the cardinal principle in the equalization which is directed to be brought about in section 332A. Here again in my submission to the Commons Committee I was simply answering the Canadian Pacific Railway contention, which was that there should be more than one mileage scale, that the Board should be able to establish more than one mileage scale. I merely expressed my satisfaction with the bill which sets out one mileage scale. I want to get rid of the Fort William basing arbitrary, which is, in my submission and in the submissions we made to the Royal Commission, what makes us pay higher rates from Eastern Canada to Alberta than we would pay if the goods moved entirely within Western Canada. For example, a carload of goods moved from Toronto to Edmonton, a distance of roughly 2,000 miles, pays so much. Now, if that car originated at Fort William and travelled westward 2,000 miles—and probably now we might find almost that mileage because British Columbia has now come in on the prairie scale—it would pay less travelling over western lines because our distributing rate scale in Western Canada produces a lower rate than the combination rate from Eastern Canada using the Fort William basing arbitrary. I must not get into anything which is too complex. Just let me say that the establishment of one single mileage scale will eliminate that basing arbitrary, and for that reason I am in favour of it.

Hon. Mr. HAIG: Are you opposed to all arbitraries?

Mr. FRAWLEY: As far as I am concerned, yes. I expressed my agreement with the relief which the Maritime Provinces asked the Commons Committee to give them. One of the items of that relief is the maintenance of the Montreal arbitrary, and as far as I am concerned I am agreeable to the Maritimes maintaining that arbitrary and I so expressed myself in the Commons Committee; but so far as the arbitrary at Fort William making my rates from Eastern Canada higher, I want it eliminated.

Hon. Mr. HAIG: In other words, when they do not hurt you you do not object, and when they hurt you you do object.

Mr. FRAWLEY: Well, I am here to represent the people of Alberta who have to pay freight rates which otherwise would be cheaper if the goods moved wholly in Western Canada. We cannot see why we should be charged more for freight coming from Toronto to Edmonton than from Fort William to Edmonton on western lines, and particularly when some of that movement via Fort William is supposed to be low because of lake competition. Notwithstanding this fact, we pay more than if it moved wholly on western lines. I come now to section 332B, which is the section Alberta certainly went before the Commission and asked for.

The CHAIRMAN: This, Mr. Frawley, is the section in which you do not want to have one single mileage scale, is that not so?

Mr. FRAWLEY: I am honestly trying to understand what you say, Mr. Chairman. What happens under section 332B is that we pay the Vancouver rate plus one-third. If that is using two mileage scales, if that is what you mean, I am not going to quarrel about that. That is what we are content to have.

Hon. Mr. HAIG: Will you tell me what is covered by that rate?

Mr. FRAWLEY: The kind of things that are covered?

Hon. Mr. HAIG: Under section 332B what is covered?

Mr. FRAWLEY: There is in the railway tariffs what is known as "I—K", which is called the transcontinental rate tariff. This is the tariff which tells you all of the goods which move from Eastern Canada to the West Coast on

the so-called transcontinental competitive rates. There are a good real of commodities there. I have never studied them from the standpoint of making any aggregate total of them as to what they cover but we had some talk about that in the Commons Committee, and I think Mr. Brazier, and his assistant, Mr. Glover, worked out the kind of commodities that were covered.

The CHAIRMAN: I understand from reading the evidence given in the Committee in the other place that, although the total number of items in that tariff was not very great, they were very important items in themselves. In other words, a good deal of traffic moves on those transcontinental rates?

Mr. FRAWLEY: That is so, sir. Take the one item of canned goods. That covers a great many commodities which enter into the everyday economy of many people in western Canada. The other instance which the Royal Commission gave, iron and steel articles, they also move in a considerable quantity. I neither wish to say that they are too many or too few. It is an important tariff, and if it were not important it would not be any grievance to us. Although, perhaps I should just say this, that there is a grievance on the part of the people of Alberta because for years and years they have had to pay these high rates when goods were being carried past their doors to Vancouver at much lower rates. And at the same time they were aware that in the United States this situation had not obtained since 1922. Since that year, due to the combined effect of the Interstate Commerce Act and the decisions of the Interstate Commerce Commission, the regulatory tribunal, the rates have been on a parity. If it cost $1.50 to ship something from Cleveland and San Francisco, it does not take long to figure out what it would cost to ship the same thing to Salt Lake City. That is the situation which exists in the United States immediately south of Alberta. If you draw a line straight down from Alberta you would run across such cities as Spokane, Salt Lake City and Ogden, and you would be looking into a very heavily industrialized section of the United States. Our people, whether rightly or wrongly, felt that the growth of the so-called Inland Empire of the United States was due in considerable part to the fact that the parity rule had obtained and that the freight rate to intermediate points was no more than to the coast. Nevertheless, notwithstanding that, all during those forty years we in Alberta have had to pay the ordinary rates, established on the principle of what the traffic will bear, while commodities went through to the coast at much lower rates.

We made that protest in many places. We made it to the Board of Railway Commissioners, as it was then called, in 1927 and we got no relief. The Board said that those things were not to be compared, and it simply rejected the appeal of our province. We went before the Rowell-Sirois Commission in 1938, and that body was interested in our protest, thought it a very interesting thing, but said it was a matter which should be taken before the Board of Transport Commissioners. The commission went further and said it thought the matter was due for an investigation. Nothing happened until 1948, when this government established the Royal Commission with wide powers. We appeared before that commission and certainly endeavoured to make out a case.

Hon. Mr. HAIG: Did the commission recommend this?

Mr. FRAWLEY: The commission recommended, as a compromise, that a rate of one and one-third be charged to the intermediate points. The position I took before the Royal Commission was that the comparable American section might be introduced into Canada with every little change. Perhaps here I might be permitted to make a brief word of explanation about the American legislation, unless Mr. Evans has already done so. In the United States the rule on transcontinental traffic is that the railway must not charge any more to the intermediate point than to the coast point, but the railway may go to the regulatory body and obtain an order permitting a higher charge to the inter-

mediate point, provided the railway proves certain things. And one of the things that must be proved is that the rate to the intermediate point is just and reasonable. The submission I made to the Royal Commission was that under the legislation I proposed the carrier would have to prove that the rate to the intermediate point was just and reasonable when compared with the rate to the coast point. And I recall that my friends of the Canadian Pacific Railway said that that was a far too rigid rule, that it never should be adopted; and so the commission, as a compromise, suggested one and a third.

Hon. Mr. REID: Does the one and one-third rate apply to paragraphs (a), (b) and (c) of section 332B, subsection (1)? Paragraph (a) defines "eastern territory", (b) defines "western territory", and (c) defines "intermediate territory".

Mr. FRAWLEY: So far as movement is concerned, senator, it covers movement from eastern Canada to the west coast. Intermediate territory, as far as the map is concerned, runs roughly from Fort William to Mission, British Columbia, I think.

Hon. Mr. REID: In that territory the one and one-third rate applies?

Mr. FRAWLEY: Yes.

Hon. Mr. KINLEY: Suppose the railways decided to raise the transcontinental rate to bring it into line with the rate to Alberta, how would that help your province?

Mr. FRAWLEY: No, there is no doubt that it would not help us.

Hon. Mr. KINLEY: Then how is Alberta hurt by the fact that the transcontinental rate is lower than the intermediate rate?

Mr. FRAWLEY: Senator, it hurts us because it offends the rule that you must not charge less for a long haul than for a shorter one. That is a fundamental principle.

Hon. Mr. HAIG: But that is not equalization of rates; that is equalization of opportunity.

The CHAIRMAN: That brings up the point I raised a few minutes ago, that here you are arguing against one single mileage scale, are you not?

Mr. FRAWLEY: I do not want to disagree with you, Mr. Chairman, but I do not see how this involves two mileage scales. But if it does, I am not against it. The people of Alberta want relief against a system under which the railways haul goods 750 miles beyond Alberta and charge lower rates for doing so than for hauling similar goods only as far as Alberta.

Hon. Mr. KINLEY: It seems to me you are taking much the same stand as men do when they ask for higher wages. A man never says to me that he wants more because he is doing more work, but simply because somebody else is being paid more. Merit does not come into the matter.

Hon. Mr. HAIG: The railways fix a certain rate to the coast and you want them to give you that rate, plus one-third, to Regina. Then the railways say that if they have to carry goods from the east to Regina at the lower rate they will lose money and therefore will have to raise the coast rates, in order to make up their revenue. As a matter of fact, I am advised that the railways can haul canned goods from eastern Canada to Carberry, Manitoba, which is east of Brandon, at a lower rate than the present rate. Mr. Evans gave us the illustration—and I must say it sounded reasonable to me—and pointed out that if they acceded to your demand they would lose money on the lower rates, and inevitably they would have to increase the coast rates. Then it is not equalization.

Mr. FRAWLEY: I do not know that I would call this equalization, senator. The equalization section is 332A.

Hon. Mr. HAIG: You told me you are opposed to arbitraries. Well, this is an arbitrary rate.

Mr. FRAWLEY: In the railway world the word "arbitrary" means some constant factor that is added to a rate to make up a total rate.

Hon. Mr. HAIG: This is an arbitrary.

Mr. FRAWLEY: Well, if it is an arbitrary I am certainly for it, because it gives relief to the province of Alberta from a situation which has gone on for forty years and which some people in this country think is wholly and completely unjustifiable. If the rate on canned goods to Vancouver is $1.57 and that shows a profit to the railway, or at least shows something over the out-of-pocket costs, then what can you say about charging the people of Calgary and Edmonton $3.23 to haul canned goods 700 miles less? Whether rightly or wrongly—and the Royal Commission has recognized our complaint, and that is much better than a voice crying in the wilderness—the people of Alberta say that that discrimination cannot be allowed to continue. If the railways make a profit on the rate of $1.57, there must be an unconscionable profit on the rate of $3.23. It is because of the terrific spread, gentlemen, that we in Alberta have been aroused against this discrimination; and our being aroused certainly seems to have impressed the Royal Commission. They said the discrimination must end. But instead of givin gus the American practice, whereby we would pay only $1.57—and why should we not pay only that amount? If the railway is making money hauling freight to Vancouver, then they should make more money when they drop it off at Edmonton or Calgary. But the Royal Commission decided that it was a controversial point and there had to be a compromise. It was determined that the people of Alberta should pay one and one-third the amount to Vancouver. The people of Alberta said they were content, that at least from now on instead of paying 200 per cent of the rate to Vancouver, they would only pay 133⅓ per cent. The fear that has been expressed before the Commons Committee, and also, I understand, before this committee, is that we will have to take the transcontinental rates out. I say, gentlemen, that is an argument designed only to instill fear.

Hon. Mr. HAIG: But they did not give that argument to us. All that was said was, they would have to increase the transcontinental rates so that they would not lose money on the intermediate rates.

Mr. FRAWLEY: That is right. But surely it will have to be demonstrated to somebody that the railway was losing money on intermediate rates. Is the Canadian Pacific telling us that they are going to lose money at $2.09?

The CHAIRMAN: This is what we were told: If in order to charge a reasonable rate to Alberta, they would increase the transcontinental rates to Vancouver and the coast, and that that would mean the loss of traffic to the latter points to the water companies.

Hon. Mr. KINLEY: Yes; they would lose the traffic.

The CHAIRMAN: Lose traffic, and consequently lose money.

Hon. Mr. KINLEY: And even that would be detrimental to Alberta.

Mr. FRAWLEY: But if they were making money over and above the $1.57, why would they have to lose that business to the ship operators? I suggest that the only reason they are able to hold that rate to Vancouver is because they are making an inordinate profit on the $3.23 rate. The fear in Alberta is that that province is being made the beast of burden, and so allowing the railways to carry on the rate to Vancouver.

Hon. Mr. REID: I do not think we should worry too much about whether the company is making money or not. It is a well-known fact in this country that railways cannot demonstrate that they are losing or making money on any particular section of track, they just don't know. They may set a rate, and

say they are losing money, but they cannot prove that that section is operating at a loss. We know that the rates are set on what the traffic will bear.

Hon. Mr. KINLEY: The railways right now have an application before the Board for an increase in freight rates.

Hon. Mr. HAIG: And if the wages of the men and of the employees of the railway are increased, the rail rate must go up. That is as plain as the nose on your face.

Mr. FRAWLEY: All I can say in connection with this contentious question of transcontinental competitive rates, is that the railways, though they perhaps have not threatened, they have suggested that they might remove the rate. Why?

Hon. Mr. HAIG: Or increase them.

Mr. FRAWLEY: Remove or increase them. Why? Because they want to make sure of the rate to the intermediate points, and they want to be sure they can hold that rate to the competitive point. I say that is unconscionable, in my submission. That is far from a good reason for continuing the high rate to Alberta.

Hon. Mr. HAIG: I have one further question to ask. This section is strikingly contradictory to the recital in the first part of the bill, that there must be an equalization of freight rates in Canada by mileage or by other means, and that other rates and arbitraries will be done away with.

Mr. FRAWLEY: Do you honestly think, when you look at those two rates, $1.57 and $3.23, that there is no equalization? This is at least an attempt at the levelling off of the rates; it is a trend toward equalization.

The CHAIRMAN: But Mr. Frawley, are you not trying to compare two incomparable things? You are attemtping to compare competitive rates with rates that are not competitive.

Mr. FRAWLEY: That is certainly stating the problem well. I would point to the United States—which is constantly in our minds—where the people of Salt Lake City pay precisely the same rates as the people in San Francisco. If an American railway can work it out that way, and not go bankrupt, why cannot the Canadian roads do the same? There is a complete parallel there. That is why I brought before the Royal Commission Professor Locklin of the University of Illinois. He came to Ottawa and gave a most complete resume of the American situation. I am sure that some of the things he had to say impressed the Royal Commission and influenced them in making their recommendation which the government has so faithfully reproduced.

Hon. Mr. REID: Is it not a fact that the rates in the United States which you mention, which are the same in Salt Lake City as San Francisco, are brought about by reason of the larger truck competition? For instance, I myself have seen ten large twelve-wheel trucks, carrying perhaps 40 tons apiece, move off at 15 minute intervals from Seattle, not for Salt Lake City, but for New York, carrying special articles and produce. And I would predict that as our transcontinental highway is developed, the railways in this country will have to meet higher truck competition. I may be wrong in my view as to the American railways.

Mr. FRAWLEY: May I say, with great respect, that you are wrong for this reason: Historically, in 1914 when there was no large truck traffic and perhaps no truck traffic at all, what was called the Spokane principle was laid down, which meant that places like Spokane would not pay more than one and one-quarter times what Seattle paid. In 1922, when there was not as yet a great deal of truck traffic, the rates went to parity; and since 1922 the rates have stayed at parity. I do think, however, that large truck movements keep down the general scale of commodity rates and competitive rates in the United States, but they do not enter into the principle that there must be parity between intermediate rates and coast rates. Thank you, gentlemen.

The CHAIRMAN: Thank you very much, Mr. Frawley.

Would the committee now like to hear from Mr. Brazier, representing the province of British Columbia, and his economic advisor, Mr. Glover?

Hon. Mr. HAIG: Mr. Chairman, I have a suggestion to make to the committee, but I shall not be disappointed if it does not meet with agreement. I wonder if the gentlemen representing British Columbia would deal principally with two sections, namely 328 and 332B. Those are the two provisions which worry me. As the hour is getting late, I would suggest that these gentlemen concentrate their remarks on these subjects.

Mr. C. W. BRAZIER: Mr. Chairman and gentlemen of the committee, in attempting to give my presentation, it is my intention to speak only as to subsection 332B.

Hon. Mr. HAIG: Would you deal to some extent with section 328, as to whether certain of these matters should be put in regulation form or in the statutes?

Mr. BRAZIER: From my point of view, Mr. Senator, it does not matter much whether they are in the statutes or in the regulations; we think the effect will be the same in either case, and we would not take objection if the bill puts them in the statutes rather than in the regulations.

Hon. Mr. HAIG: That is what I wanted to know.

Mr. BRAZIER: But we do very seriously object to section 332B. I regret that there are certain statements made by Mr. Frawley with which we in British Columbia do not agree. First, that Alberta pays the highest freight rates in Canada. British Columbia is, as you know, the furthest province from the industrial centre of Canada, further even than Halifax or any point in the Prairie provinces.

Hon. Mr. REID: What about Newfoundland?

Mr. BRAZIER: I am sorry, I overlooked that province.

Hon. Mr. BAIRD: We are quite "Liberal", and we don't mind.

Mr. BRAZIER: I apologize for the oversight, and I have not checked the distance to Newfoundland. There can be no doubt about the fact that we in British Columbia pay the highest rate in Canada. For many years we suffered under what we thought an unjust discrimination in British Columbia, in that the railways levied an additional rate for shippers in British Columbia because of the fact that the trains had to go over the mountains in British Columbia.

Hon. Mr. REID: Through the mountains, not over them.

Mr. BRAZIER: Well, one railway went over and the other one went through the mountain. That was a question of the mountain differential, which I am sure you have all heard of in past years, when your late colleague in the Senate was a leader in the movement in Vancouver to abolish that discrimination. We did succeed, somewhat over a year ago, in having that finally removed. But at one time on our class rates we paid double the rate that was paid anywhere else in Canada. It was then reduced to one and a half times; and after many years, to one and a quarter times. Now we are put on an equality with the rest of Canada, where we think we properly deserve to be.

Because of that long fight to equalize our rates with other parts of Canada, British Columbia approves the general principle of this bill, which is to make the rates as far as possible apply equally to all parts of Canada. I say that that is the principal purpose of this bill.

We know that competitive rates cannot be equalized and applied to all parts of Canada, because there are different types of competition in different parts of Canada, and the degree of competition is greater in some parts than others. So competitive rates are never going to be equalized under any

rational system of freight rates. We do agree with the other provinces that in past years the control of competitive rates may have been rather too loose, and I think probably the railways as much as ourselves regretted that during the depression years some of their rates got so low that they were probably carrying the traffic at an actual loss; and that may have applied to some of our transcontinental competitive rates. We were quite willing to go along with the other provinces this far, that the Board should determine that all competitive rates are compensatory to the railways; that is, that the railways make their out-of-pocket expenses so far as can be determined and something into their general overhead. The Royal Commission saw fit to recommend that regulation should become more positive than it had been in the past.

As I was saying, we do agree that this sets down the rules by which competitive rates are to be judged in the future, and we agree that they are satisfactory and proper rules.

Hon. Mr. REID: Has any definite meaning been given to the word "compensatory"?

Mr. BRAZIER: After some three or four years' experience in these matters I have never been able to convince myself that you can prove whether an individual rate is compensatory or not. At any rate it is a very difficult matter. We then tried to establish as to whether the rates charged in regions were compensatory, and we found that most difficult, and it was done in the mountain differential case. But it is a difficult thing. Probably, taking general averages, you can tell: if the rate is above the general average the railway is getting I think it can be presumed to be a compensatory rate, and I think that is probably as far as you can ever go.

We in British Columbia agree that these conditions should be as equal throughout Canada as far as possible. We do not object to 332B on principle. As, I think, one or two members of the committee have already mentioned this morning, this is setting up another special rule to apply to just one class of rates. There can be no doubt about that. There is a section in the act under which competitive rates are going to be controlled, and then in the next section it is stated that those rules apply but there is another rule that is going to apply as far as your transcontinental rates are concerned, and that rule is that an intermediate traffic rate must not be more than one and one-third of that competitor. Fundamentally I say it is wrong in principle, when you have an equalization bill, to put into it a clause that again unequalizes it so far as one part of your traffic is concerned; and this has been the stand that we have taken over the years.

Mr. Frawley before the House of Commons Committee mentioned that the railways were rather, he thought, trying to scare people into thinking that these rates were going to be raised. Our opposition to this removal of our transcontinental rates or control of our transcontinental rates goes back many, many years, and it has nothing whatsoever to do with any present arguments that the railways might have put up.

Mr. Frawley did mention that this question has been before the Board of Transport Commissioners many times, and with your permission, Mr. Chairman, I would like to read you just an excerpt from the judgment of the Chief Commissioner, Mr. Justice McKeown, of the Board of Railway Commissioners—as they were then—in 1927. This is taken from page 135 of the judgment as it appears in Canadian Railway Cases:

> As far as concerns three of the above enumerated features of our present rate system—namely, Transcontinental Rate Scale, Terminal Tariffs, and the different Standard Mileages, east and west, I am of the opinion that no reasons have been urged sufficient to make it advisable that the same should be eliminated or altered, as asked by various

petitioners. They have been discussed individually in different rate judgments. Their origin and the reasons for their establishment and maintenance have been frequently explained and in my view such reasons stand as a justification for the continuance of these existing features of our rate system substantially unimpaired. It is, I think, unnecessary to bring into the discussion a reiteration of what has been previously decided concerning them. The Transcontinental Rate Scale has a very definite purpose, and one which should be commended rather than criticized. While it gives rise to some anomalies, nevertheless such are not by any means to prevail against the benefit of the system as a whole. It is true that some localities east of Vancouver are compelled to pay on certain commodities transportation rates greater than those charged for the long haul; but the real issue in the regard is whether the charge for the short haul is reasonable, and fair. The two sets of rates are based on different principles, as is well recognized, and are not to be judged by the same standard.

Transcontinental carriage of freight has been much affected by reason of the cheaper, although much more lengthy and circuitous water route furnished by the Panama Canal. In instances wherein rapid delivery is not essential, the competition of the latter route is most formidable. The establishment of this route has deprived railways of much traffic, and wherever they can meet such competition by making low transcontinental rates, they should be encouraged to do so, and schedules framed for that purpose should not be disturbed.

I think, Mr. Chairman, that that is quite strong language, coming from a very eminent Commissioner who had many years' experience in dealing with railway matters; and I submit to you that that situation has not changed today. You cannot compare the normal rate to Calgary with the competitive rate to Vancouver. Now, there are a number of complications and with your permission I should just like to mention a few rates. These transcontinental rates do not apply to all traffic coming to Vancouver by any means, and some very important commodities coming to British Columbia have to pay the normal rate.

Hon. Mr. BAIRD: Such as what?

Mr. BRAZIER: The first one I am going to mention is automobiles. We get a lot of automobiles in Vancouver. The rate to Vancouver on automobiles is $8.83 a hundred.

The CHAIRMAN: From the east?

Mr. BRAZIER: From the east, that is, from the Toronto and Montreal area. It is $8.83.

Hon. Mr. HAIG: A hundred pounds?

Mr. BRAZIER: Yes. The rate to Calgary for that same automobile is $7.37. In other words, we pay $1.46 more. The rate to British Columbia is getting so high that I can speak from personal experience that it is worth while coming down here and getting a car and driving it home yourself. I did that last summer and saved over $300 in the case of my automobile.

Hon. Mr. BAIRD: You must have a big automobile.

Mr. BRAZIER: No, just a normal sized automobile. The rate on automobiles to Vancouver today runs between $285.00 and $335.00.

Hon. Mr. KINLEY: Yes. There are English cars coming in by water to Vancouver.

Mr. BRAZIER: Yes. Trucks take a lower rate. We pay $7.27 a hundred pounds and the rate to Calgary is $6.12, a difference of $1.15 a hundred. There is a lot of furniture brought from Eastern Canada into Vancouver, and the rate

is $4.49 whereas the Calgary rate for the same furniture is $3.79, a difference of 70 cents. On household goods and personal effects our rate is $3.52, and the rate to Calgary is $2.91. Now, these are just a few examples of important commodities we bring into British Columbia from Eastern Canada and on which we pay the highest rate in Canada.

Hon. Mr. KINLEY: Have you some important commodities on which you pay the lowest rate in Canada.

Mr. BRAZIER: The lowest rate in Canada?

Hon. Mr. KINLEY: Yes, where you pay the transcontinental rate.

Mr. BBAZIER: Mr. Frawley has mentioned one of them, canned goods. Another one is steel and steel products. They both carry a relatively low transcontinental rate. I shall try to explain in a few minutes why we think they are lower than the average in the transcontinental rate tariff. This canned goods item is mentioned all the time. Our canned goods rate only applies when we bring a carload of 70,000 pounds. For this we pay $1.57. If we bring 50,000 pounds, the rate is $1.79, and if we bring a 24,000 pound car, which is the sort of car the general smaller merchant would order, we pay $3.89—more than Mr. Frawley's client.

Hon. Mr. KINLEY: What about your canned goods going east?

Mr. BRAZIER: There are some special commodity rates on canned goods out of the Okanagan Valley to eastern Canada.

Hon. Mr. KINLEY: What about salmon?

Mr. BRAZIER: They are covered by the eastbound transcontinental tariff, and as you will appreciate, there the thousands of rates in this tariff.

Hon. Mr. KINLEY: Well, that is an important rate, the one on salmon.

Mr. BRAZIER: I think there is a relatively low rate on canned goods coming east, just as there is on canned goods going west.

Hon. Mr. MCLEAN: Why should there be any difference between the east coast in normal circumstances. There is not the same movemnt. There is not the movement of canned fish from our coast to eastern Canada as there is of canned vegetables and soups and so on that are sent from eastern Canada to the Pacific Coast.

Hon. Mr. HAIG: That is correct.

Hon. Mr. MCLEAN: It would cost the railways practically the same.

Mr. BRAZIER: The commodity rate, Mr. Glover, tells me, from coast towns to eastern Canada on canned goods is $2.34.

Hon. Mr. KINLEY: A case?

Mr. BRAZIER: That is on one hundred pounds. That is a 40,000 pound car. On the 70,000 pound car we still have the $1.57 rate coming east as we have it going west. That will give an idea of some of the commodities in which we do pay higher rates than Alberta. Now, as far as I can determine the chief argument made in support of this particular section of the bill is the fact that it is going to affect very few items and that a change of just one or two cents in the transcontinental rates will mean that the whole thing will be fixed up so that British Columbia will not be hurt and Alberta will get the benefit of it. We have made a thorough study of all the items mentioned in the present transcontinental tariff.

The CHAIRMAN: The competitive rate?

Mr. BRAZIER: Yes, and let me point out to you that this tariff only applies to carload lots. At one time the transcontinental competitive rates did apply to a great many less-than-carload shipments, but the less-than-carload shipments

have been eliminated by the railways during the past few years, so the competitive rate only applies to carload lots. Now, there are 170 items in the transcontinental competitive tariff at the present moment.

Hon. Mr. REID: How many?

Mr. BRAZIER: There are 170 items. Under each item there are a great number of different commodities. I might just give you an example of what I mean. For instance, there is an item "glass and glassware" and under that there are battery jars, bottles, common window glass, fruit glasses, glassware, globes, street light globes, and a great many other individual commodities under that item. There are 170 items, and we have calculated all the items on the present rate.

Hon. Mr. ASELTINE: Do you mean items or classes?

Mr. BRAZIER: Items. When I speak of items I refer to items in the tariff which will include a number of commodities. There are 170 all told in this one tariff. We find that 63 per cent of those rates are going to be affected and they are going to be affected in this way that either our transcontinental rate will have to be increased or the Alberta rate will have to be lowered. I think that dispells any idea that it is a matter of just a small change in the rates. We carried our investigation a little further because it was suggested that there would be just a cent or so difference, that there wouldn't have to be much difference made in the Calgary or Vancouver rate to carry out the purpose of this section. We found that the great majority of the changes that will have to be made range from 40, 50, 60, 70 cents up to $1.20 in the rate. Now, that is a substantial adjustment to be made one way or the other in those rates if this section becomes law. We find that if the railways wish to maintain the Vancouver rate they are going to have to carry back the one and one-third in some instances to points east of Winnipeg; that is, the one and one-third rate would apply not only to Calgary but it would apply to points in some cases east of Winnipeg. Now, in most cases it will carry back to a point between Regina and Winnipeg, so you can see that the railways will be faced with a very serious problem.

Hon. Mr. REID: You say east of Winnipeg. How far east?

Mr. BRAZIER: Senator Reid, we have taken the Winnipeg rate and we have taken the Fort William rate. We cannot check every rate in between. It falls between these two points.

The CHAIRMAN: But you say that the general average would be some point between Regina and Winnipeg?

Mr. BRAZIER: Yes, or Saskatoon and Winnipeg, in that general area. So if the railways are going to maintain the transcontinental rates, as it is off-handedly said they probably will, they are going to have to lower all the rates applying in that wide territory. Now I suggest to you, gentlemen, that the railways are going to think twice before they maintain those transcontinental rates, and that in all likelihood they are going to increase them to some degree. They may compromise and say that they will put them up a bit and lower the rate to Calgary a little, but I say that even if they do that it will be to the detriment of British Columbia. That is an artificial way of making rates, not a natural way of making rates in this country or any other country. And we submit once again that we should not be subjected to what will amount to a discrimination, and we say particularly that the discrimination should not be a statutory one, as this would be.

It has been suggested to me, "Well, if it does not work we can take it out next year." But, gentlemen, we in British Columbia know how difficult it is to get these sections out once they are put into the legislation, and so I am not placing any faith in that sort of promise.

I have here and I should like to leave with the committee, if I may, a copy—I can obtain more copies—of the full list of the commodities and the variation that will be made in the rates. But may I give just one or two examples? On aluminum ingot, pigs and slab, they would have to make an adjustment of 99 cents in the rate at the present time. On asbestos they would have to make an ajustment of 89 cents.

Hon. Mr. HAIG: That is per 100 pounds?

Mr. BRAZIER: Yes.

Hon. Mr. REID: What do you mean by an ajustment?

Mr. BRAZIER: They would have either to raise our rate 99 cents or lower the Alberta rate by two-thirds of 99 cents. That is the way it would work, senator.

Hon. Mr. KINLEY: Are you not going to have an aluminum plant in British Columbia?

Mr. BRAZIER: Yes, I think so.

Hon. Mr. KINLEY: Will that not change the situation a little?

Mr. BRAZIER: I am just picking out different commodities that are listed here, senator. Some of these commodities may be manufactured in British Columbia, but we still do import a lot from eastern Canada. On pig iron, for instance—and there is no sign that we are going to have a steel mill in British Columbia in the near future—

Hon. Mr. BAIRD: They have one over in Japan.

Mr. BRAZIER: On pig iron the change which would have to be made is 27 cents.

Hon. Mr. KINLEY: What is the rate on pig iron to the coast?

Mr. BRAZIER: It is $1.18 at present. That is from the Toronto-Montreal-Hamilton triangle, senator. All these rates apply from the wide industrial area in the east.

Hon. Mr. REID: May I ask a question regarding aluminum? If aluminum was being shipped from interior British Columbia to southern points, would the shipments come under the general tariff, or would the railway be allowed to put into effect a rate of its own when shipping through Canada to the United States?

Mr. BRAZIER: The transcontinental rate would apply to Vancouver, and probably there would be a local rate from there to the American point. If there was a sufficient movement I presume the railways would establish a special commodity rate to the destination.

Hon. Mr. KINLEY: Does the transcontinental rate apply to any point in British Columbia?

Mr. BRAZIER: It applies to the terminal points in British Columbia, and it is a very narrow area that is covered by it. I am not sure, senator, if you are familiar with the lower mainland. It applies in as far as Mission.

Hon. Mr. ASELTINE: What about Prince Rupert?

Mr. BRAZIER: It applies to Prince Rupert and Victoria, but not to Nanaimo. It applies to New Westminster and all the area contiguous to Vancouver.

These rates were originally justified on a basis of water competition between the east coast and the west coast, but today there is no boat running to keep up the competition. If I have the time, Mr. Chairman, I would give a little history of these transcontinental rates. Before the Panama Canal was built there was always some tramp steamer willing to carry goods even around Cape Horn. And that applied even more in the United States than in Canada, and in those days the American railways published transcontinental rates, which affected rates in Canada, because we have an American railroad running

into Vancouver. Water rates are brought about first, I may say, by the water competition or the potential water competition that exists all the time. Secondly, they are brought about by the competitive situation on the American railroads. And thirdly, they are brought about by the market competition from countries other than Canada. The best example of this is steel pipe coming to Vancouver.

The CHAIRMAN: An honourable member mentioned English automobiles.

Mr. BRAZIER: Yes, Mr. Chairman, but the English automobile is not quite the same product as the Canadian or American automobile. Some people might not like the small English car. But the steel pipe is exactly the same product, whether brought from Hamilton or from England, and in the last few years a great deal of English pipe has been brought to Canada by water from England.

Hon. Mr. REID: At times has not the ocean rate been higher than the railway rate from eastern points to Vancouver?

Mr. BRAZIER: Not that I am aware of, senator.

Hon. Mr. REID: I think they were during the war.

The CHAIRMAN: That was a special situation.

Mr. BRAZIER: Yes. In wartime there are special conditions.

I was referring to steel pipe, in which there is competition between the English and the eastern Canadian manufacturers. If the railways wish to get the traffic from Hamilton they have to make a rate low enough to permit the manufacturer there to compete with the English manufacturer who lays his goods down in Vancouver at a rate lower than what would be the normal rate from Hamilton.

Hon. Mr. BAIRD: The rate is lower by the canal?

Mr. BRAZIER: Yes, senator, the water rate from England to Vancouver would be substantially less than the normal rate from Hamilton to Vancouver.

Two items which are always picked out to illustrate the greatest difference in rates are canned goods and iron and steel products. I suggest to you that there is a very good reason for this. My theory is that the railways would look at the matter in this way: if we can get the canned goods, which are carried in great volume, and also get the iron and steel products, away from the ships, then the ships probably will not be able to operate at all, for they do depend particularly on iron and steel products for the larger part of their cargo. Before the Commons Committee I gave some details as to one of the ships that went in 1949 from Montreal to Vancouver, and I would judge that better than half of its cargo was in iron and steel products.

Hon. Mr. REID: What about lumber?

Mr. BRAZIER: There is no lumber shipped from the east to the west coast. Of course, it is shipped in the opposite direction.

On these boats, when they operate, the shipping rates that I have seen have been lower than even the transcontinental competitive rail rates. I give you this example: In 1949 the rail rate on canned goods was $1.33 per hundred pounds; and the rate by ship was seventy-five cents per hundred pounds. To that seventy-five cents was added an amount for wharfage and insurance, which brought the actual costs of shipping by water to slightly less than $1.00. But, you see, the railways did not attempt to completely meet that competition, and they do not have to. They have a factor of time in their favour which permits them to charge slightly higher rates that the ships do. That, gentlemen, is the background and some of the details of the transcontinental rates.

Before concluding I wish to point out something in connection with Senator Reid's comment, that you cannot compare rates one with another in all parts of Canada. We in British Columbia, because of the mountains, have paid additional amounts for rail service over fifty years.

Hon. Mr. REID: But keep the record straight. We have the lowest grade in Canada over the C.N.R., but never get any benefit from it. We have the lowest grade in Canada, one-half of one per cent. There is no grade in British Columbia, other than on the C.P.R.

Mr. BRAZIER: That is right. The rates were originally established on the C.P.R., and are maintained on C.P.R. operations, but the C.N.R. has no grades through the mountains.

Hon. Mr. REID: In other words, the C.P.R. is the measuring stick for British Columbia.

Mr. BRAZIER: That has been so. But we have geographical difficulty, and have been called upon to pay additional rates because of it. During all this period when the Prairie provinces had the benefit of the Crowsnest Grain rates, to which we take no objection, we have had to face the geographical handicap; the Prairie provinces had the statutory advantage given to them. The Maritime provinces were given assistance through the Maritime Freight Rates Act, by way of subsidy. Another part of Canada, which suffered from an unfortunate geographical position, was assisted by the federal government in overcoming difficulties. But we in British Columbia never received any such assistance, and we do not now ask for any. We do say, however, that the rules that apply to our traffic should be the same as the rules that apply to any other competitive traffic in this country.

The CHAIRMAN: In other words, you want to preserve whatever advantages you get from competition?

Mr. BRAZIER: That is right. You can't change our geographical position.

Hon. Mr. KINLEY: Can you tell us in a word or two how you want the bill changed?

Mr. BRAZIER: Just eliminate subsection 332B.

Hon. Mr. GERSHAW: Could you give a general answer as to this matter, Mr. Brazier? It has been brought out that the railways can make a profit, under the competitive rates, the transcontinental rates, by carrying goods from eastern Canada to Vancouver at a certain rate, say at $1.50.

Hon. Mr. GERSHAW: What justification is there for having a much higher

Mr. BRAZIER: Yes.

rate from that eastern point to, say, Calgary, or some intermediate point?

Mr. BRAZIER: I think it is an established principle of rate-making that all goods do not pay the same rate over the same distance.

Hon. Mr. GERSHAW: But take the same article, from Calgary to Vancouver, when a profit is made at the Vancouver rate.

Mr. BRAZIER: Well, sir, You have to look not only at the rate itself—Incidentally, while I was sitting in the room and before coming to address you, I figured out the freight bill on a 24,000 pound carload of canned goods going to Calgary, and calculated that the railway would get $785 revenue from it. In order to get our rate to Vancouver we have to take 70,000 pounds, on which the railway would receive $1,090. The railway would actually get more money at the $1.57 rate than they would at the $3.23 rate. True, it may cost the railway somewhat more to haul a carload of 70,000 pounds that it would 24,000 pounds, but I do not think there would be a substantial difference. You just cannot take the rate boldly, and say that the return is lower than at another rate. It depends on many things, such as mixing together of various goods in one car, and other factors.

Hon. Mr. REID: Suppose the bill passed without section 332B, it would still contain section 332A, having to do with equalization.

Mr. BRAZIER: Yes.

Hon. Mr. REID: On the scale of mileage, I mean.

Mr. BRAZIER: That section establishes uniformity, and 332B takes it away.

Hon. Mr. REID: Does that not eliminate the fear expressed by Senator Gershaw? Would that section not protect Alberta to quite an extent?

Hon. Mr. HAIG: No, it would not. What Mr. Brazier has said is this, on uniform rates across Canada, British Columbia would pay more than Alberta pays, by reason of its proximity to the water, and in that I think he is quite correct. There is that geographical question, and British Columbia is not so far from the Panama Canal. For that reason B.C. is open to the ocean rates, and having that advantage we should not penalize them for it. True, they have more mileage, but it is not a question of mileage rate. It is a special rate. Mr. Brazier has told us about automobiles, which are shipped at, I believe, $8.50 per hundred pounds, while Calgary pays $7.40, or something like that. But this is a special rate, which does away with equalization altogether.

Mr. BRAZIER: If I could, I should like to direct my answer to Senator Gershaw's observation on the $1.57 and $3.23 rate. If we look at the grain rates, we can presume that the railways are making some profit on the carrying of grain at the Crowsnest Pass rates. As an example, I would point out that the rate for export to Vancouver is 20 cents per hundred pounds.

The CHAIRMAN: From where?

Mr. BRAZIER: From Calgary to Vancouver, it is 20 cents. If that same carload of grain is coming to Vancouver for domestic use the rate is, at the present time, 36½ cents.

Hon. Mr. HAIG: Hear, hear.

Hon. Mr. REID: There is no reason at all for it.

Hon. Mr. BAIRD: But you are assuming that the railway is making money on the Crowsnest Pass rates?

Mr. BRAZIER: Yes.

Hon. Mr. BAIRD: How you know that?

Mr. BRAZIER: That is a problem which I am afraid I cannot give the answer to.

Hon. Mr. KINLEY: Those are statutory rates.

Mr. BRAZIER: The C.P.R. attempted before the Royal Commission to show they weren't making any money, but were not permitted to do so.

Hon. Mr. HAIG: I do not think it should be forgotten that but for the Senate there would be no Crowsnest Pass rate in Canada.

Hon. Mr. REID: It is the domestic rates that bother us. It is the most unjust deal we ever got in railways rates, the domestic rates to British Columbia, and there is no possible justification for them.

Mr. BRAZIER: As Mr. Frawley pointed out to you, the railways today are applying to have that domestic grain rate to Vancouver increased. Now I would say the same argument would apply to these rates, as on the other rates. We do not ask to be treated any differently or be given any preference over any other part of Canada, but we do ask to be permitted to retain that geographical advantages we have by reason of being on the coast. Thank you.

The CHAIRMAN: Thank you, Mr. Brazier. Does Mr. Glover wish to add anything to what you have said?

Mr. BRAZIER: No.

The CHAIRMAN: We will adjourn now to meet after the Senate rises tomorrow afternoon, Thursday, to hear representations by the provinces of Manitoba and Saskatchewan.

1951

THE SENATE OF CANADA

PROCEEDINGS

OF THE

STANDING COMMITTEE

ON

Transport and Communications

On the Report of the Royal Commission on Transportation.

No. 5

THURSDAY, NOVEMBER 29, 1951

The Honourable Adrian K. Hugessen, Chairman

WITNESSES:

Mr. M. A. MacPherson, K.C., Counsel, for Saskatchewan.
Mr. C. D. Shepard, K.C., Counsel, for Manitoba.

OTTAWA
EDMOND CLOUTIER, C.M.G., O.A., D.S.P.
PRINTER TO THE KING'S MOST EXCELLENT MAJESTY
CONTROLLER OF STATIONERY
1951

STANDING COMMITTEE
ON
TRANSPORT AND COMMUNICATIONS

The Honourable ADRIAN K. HUGESSEN, *Chairman*

The Honourable Senators:

Aseltine	Horner
Baird	Hugessen
Davis	Kinley
Dessureault	McLean
Gershaw	Nicol
Grant	Paterson
*Haig	Raymond
Hawkins	*Robertson
Hayden	Reid

*Ex officio member.

ORDER OF REFERENCE

EXTRACT from the *Minutes of the Proceedings* of the Senate, Friday, 19th October, 1951.

Ordered, That the Standing Committee on Transport and Communications be authorized to examine and report upon the Report of the Royal Commission on Transportation and especially upon the proposal to equalize freight rates and the effect of such proposal on specific areas of Canada.

That the said Committee be empowered to send for persons, papers and records.

That the Committee be authorized to sit during adjournments of the Senate.

Attest.

L. C. MOYER,
Clerk of the Senate.

96821—1½

MINUTES OF PROCEEDINGS

THURSDAY, November 29, 1951.

Pursuant to adjournment and notice the Standing Committee on Transport and Communications met this day at 4.30 p.m.

Present: The Honourable Senators: Kinley, Acting Chairman; Aseltine, Baird, Dessureault, Gershaw, Haig, Horner, Paterson and Reid—9.

In attendance: Mr. J. F. MacNeill, K.C., Law Clerk and Parliamentary Counsel, and the official reporters of the Senate.

Pursuant to the Order of Reference of October 19, 1951, the Committee resumed consideration of the report of the Royal Commission on Transportation.

Mr. M. A. MacPherson, K.C., Counsel for the province of Saskatchewan, was heard with respect to the Report of the Royal Commission on Transportation, and especially upon the effect of the proposals in connection with the province of Saskatchewan.

Mr. C. D. Shepard, K.C., Counsel for the province of Manitoba, was heard with respect to the Report of the Royal Commission on Transportation, and especially upon the effect of the proposals in connection with the province of Manitoba.

At 5.30 p.m. the Committee adjourned to the call of the Chairman.

Attest.

JAMES D. MACDONALD,
Clerk of the Committee.

MINUTES OF EVIDENCE

THE SENATE

OTTAWA, Thursday, November 29, 1951.

The Standing Committee on Transport and Communications, which was authorized to examine the report of the Royal Commission on Transportation, met this day at 4.30 p.m.

Hon. Mr. KINLEY (*Deputy Chairman*) in the Chair.

The DEPUTY CHAIRMAN: Gentlemen, we have before us this afternoon, counsel representing the Province of Saskatchewan and the Province of Manitoba, who wish to make some representations to us with respect to the report of the Royal Commission on Transportation and Bill 12, which bill is before the other house but has not yet been presented in the Senate. Are we ready to hear these gentlemen?

Hon. Mr. HAIG: Agreed.

The DEPUTY CHAIRMAN: Which of them will be heard first?

Hon. Mr. HAIG: Let them decide themselves.

Mr. M. A. MACPHERSON, K.C., of counsel for the Province of Saskatchewan: Mr. Chairman and honourable members of the committee, I understand that you are particularly concerned with the Royal Commission's report. The report, in so far as it concerns the Province of Saskatchewan and the other provinces, has as a central theme the question of equalization of freight rates. Now, there are two senses in which equalization of freight rates may be considered. Speaking for my own province I might adopt a sentence from the memorandum of Dr. Innis, given on the concluding page of the report:

> An obsession with equalization will obscure the handicaps of the Maritimes and of Western Canada and perpetuate their paralyzing effects.

That is to say, gentlemen, that so far as we are concerned we do not want to look upon any legislation that may come from the report as actually providing equalization. That term has a mathematical connotation. The idea that some quantity of freight, whatever the commodity may be, could be moved for the same distance, any place in Canada at the same rate, is recognized by us as being absolutely impossible, impracticable and unrealistic. In the very nature of things, freight must be divided into classes, and once you do that you are bound to have in certain areas freight of a certain class moving more readily than in other areas, so that it would be impossible to have true equalization.

Furthermore, it would be unrealistic to suggest that competitive rates can be eliminated. And once you introduce the idea of competitive rates and acknowledge that you must have them, you see that it would be impossible to have complete equalization.

However, there is a proper sense in which equalization may be attempted, and it is this proper sense that I think the report suggests to parliament. The proper sense is this, that our freight rate structure is necessarily modified by certain factors. One of those factors is historical events as they may effect various areas in the country. Another factor would be the unequal impact of national policy on different parts of the country, and on the economy of the country as a whole. A third factor would be the geographical handicaps as they exist today and as they may affect different parts of the country.

Now in order to bring about this proper sense of equalization there has been recourse in the past to certain ideas, such as arbitraries, and arbitrary mileage, and the Maritime Freight Rates Act, and, as is proposed in this report, an amendment to the Railway Act that will provide something by way of subsidy to ease the situation, or, in the proper sense, to provide equalization, having regard to Western Canada.

On behalf of my own province I have been before the Board of Transport Commissioners for the past three days and have heard some very learned gentlemen there speak of the expanding economy of our country, which of course is very pleasant to hear. But I come from a province which is in a sense at the freight shed. That is, in Saskatchewan our grain, for instance, this year flows from about Regina west and from Regina east. We export other things also, butter and so on, and they too go west from about Regina and east from about Regina. And we are not in the happy position of being able to say, in these days of reference to expanding economy, that our population is increasing, for it was very bad news for us to learn from the census figures that our population had gone down in the last ten years by 67,000. That situation is one that I know this committee will consider, in remembering what I have said with respect to the impacts of national policy.

It does not matter whether it was wise or unwise that in the erection of this country and in its physical constitution we developed a direct east-west trade and traffic. The fact is that that is what was done, and that has been accepted as national policy by successive governments in this country. We have our railroads running east and west, and from that fact it naturally follows that there has been a national policy aimed at providing traffic for those railroads running east and west. That has had its impact on that particular part of the country from which I come and which I have the honour to represent here. I would urge that any legislation that is introduced as a result of the report of the Royal Commission, that it should give careful recognition to this fact.

I realize that the bill has not yet come to the Senate. There is one section in the measure dealing with a subsidy which would seek to ameliorate conditions so far as western Canada is concerned. I may say at the outset that we from Saskatchewan are asking for the deletion of no section of that bill when it comes to you, but we are asking for an amendment to section 18, which deals with the question of subsidy.

Hon. Mr. PATERSON: That is in Bill 12?

Mr. MACPHERSON: Bill 12. Section 18 as it is now phrased might indicate that the $7 million, when paid or handed out to the railways, might be used by the railways for the purpose of putting deluxe maintenance on the portion of the railway which is called the "bridge"; and there might be competition as between the railways, on the spending of money in that particular area.

Our contention is that the report comes to parliament with a recommendation that the $7 million should go to relieve the burden of freight rates on the people of western Canada. It is not the "bridge" that is being subsidized; it is not that area known as the "bridge" which is being subsidized, but what is being subsidized is the people of western Canada, the freight-payers of that part of Canada. It should be written into the bill that it is for this purpose, and this is the purpose it must serve.

I believe that an amendment will come to the Senate with the bill. That amendment has been accepted by the Committee of the House of Commons, and it is intended to carry out the principle that I am now urging. The section as drafted is defective and incomplete; it does not indicate what the Commission really wanted to do, namely, that it should subsidize the people of the west.

Hon. Mr. REID: Have you anything to show us what effect $7 million would have on the freight rate structure? What would it mean in actual help, particularly if credited against the freight on grain?

Mr. MACPHERSON: There have been various figures given. The benefit would not accrue in respect of reduction of competitive rates; it would be of benefit in respect to the normal rates. This is a rather difficult question to answer, Senator, but an economist who has been working closely with us has suggested that it might be anywhere from 8 per cent upward by way of reduction in the normal rates.

Hon. Mr. REID: It would be interesting to know.

Mr. MACPHERSON: Yes. His estimate was that there would be an easement of 8 per cent, or maybe more on the normal rates.

Hon. Mr. PATERSON: May I ask Mr. MacPherson a question? Have you in mind moving the western farmer nearer the markets, by lowering the freight rates on wheat? Is that what you have in mind?

Mr. MACPHERSON: No. I can answer your question by quoting two sentences from the report of the Royal Commission on Transportation. Chapter XI has, as its first sentence, the following:

> Various submissions were made to the Commission as to steps which ought to be taken to lessen the burden of freight rates for the Western Provinces whose geographical location necessitates a haul of traffic inwards and outwards over a long stretch of unproductive or only partly productive territory.

The committee well know that the problem was the lessening of the burden of freight rates. The closing paragraph contains these words:

> It is expected that the assistance herein provided will be particularly effective as a measure of relief in the case of charges on westbound traffic passing over this bridge.

So far as we are concerned, that covers the combines and the automobiles and those other commodities which must come from eastern Canada. The paragraph goes on:

> The Crowsnest Pass rates structure provides to a considerable extent, although of course not altogether, for the requirements of traffic eastbound.

That very definitely would affect such commodities as butter and livestock; it would bring that closer. It would differ from the Maritime Freight Rates Act, which in a sense establishes a wall in that while the subsidy is paid on traffic outwards it is not paid on traffic inwards. So far as we are concerned, this is traffic inwards and outwards, and we accept that. We say that while that would benefit eastern Canada as well as western Canada, in the last analysis it will benefit our people more.

Hon. Mr. PATERSON: You mentioned the stretch between Sudbury and the head of the lakes.

Mr. MACPHERSON: Yes.

Hon. Mr. PATERSON: That is not used a great deal in summer for grain, but more for livestock.

Mr. MACPHERSON: Yes.

Hon. Mr. PATERSON: You would have to move that starting point west as far as Winnipeg to get the benefit of a "bridge" there.

Mr. MACPHERSON: Yes. We are accepting the bill as it is, and accepting the "bridge" as it has been defined in the bill. We recognize two things that will be provided: First, an easement, and in consequence thereof it will mean that a broader conception of equalization is being attempted.

Hon. Mr. ASELTINE: Has the amendment which you mentioned been agreed to by the House of Commons Railway Committee?

Mr. MACPHERSON: Yes.

Hon. Mr. ASELTINE: And that committee has finished its work?

Mr. MACPHERSON: It has.

Hon. Mr. ASELTINE: The bill is now before Commons?

Hon. Mr. HAIG: What is the nature of that amendment?

Mr. MACPHERSON: I do not have the amendment here, but it carries out the thought that I have stated, that this $7 million is definitely to be used for the purpose of reducing the burden of rates, and the terms of that is to be worked out by the Board of Transport Commissioners. I think it would be impossible to ask parliament, in a bill like that, to determine the details which can only be dealt with by some tribunal. The details in connection with the payments to the railways are to be referred to the Board of Transport Commissioners.

Hon. Mr. ASELTINE: Would not one of the details be the matter of how much is to be paid to one road and how much to the other?

Mr. MACPHERSON: That is one of the things, yes. In this connection it is determined by the Board of Transport Commissioners. As I said to the Commons Committee, it must be remembered that while there is only one transcontinental railway so far as the Canadian Pacific is concerned, and while there are two so far as the Canadian National is concerned, yet there is a situation where the Canadian Pacific, with 16,336 miles of road has only 5,672 in the east and 10,664 in the west, that is west of Fort William; even though there is but one transcontinental road, so to speak. The Canadian National with 22,150 miles of track, has 11,731 miles in the east and 10,419 miles in the west. That is to say, the Canadian National, with two roads, has more eastern than western mileage. Now, I am not pleading for the Canadian Pacific, but I am thinking of my own people in this regard; with one road, traffic on the Canadian Pacific probably would be heavier, or as heavy as the Canadian National with two. That is a factor that will have to be taken into consideration.

The DEPUTY CHAIRMAN: The Canadian Pacific Railway suggested a 50-50 split, did they not?

Mr. MACPHERSON: Well, that seems to us reasonable under the circumstances. In saying that I am thinking of the fact that they have in Western Canada 10,664 miles, as against 10,419 miles that the Canadian National has.

Now, in the bill—and this is one of the recommendations of the report—there is the suggestion that standard freight tariffs be eliminated. Our friends of the Canadian Pacific were considerably exercised because they felt that that would mean that they would be exposed to actions, reparation actions, that the ceiling would be removed in such a way that there would be a rash of lawsuits. Well, we are not anxious that that should happen, and I think, when the bill comes down, there will be an amendment which will take care of that which is not in the original bill; and we do not object to that, because we are not anxious that either of the railways should be embarrassed with nuisance actions, or with actions at all. On the other hand we are anxious that there should be preserved the right of any man to have an action if unreasonable rates should be charged.

One of the sections of the bill has to do with competitive rates; and I can say to this committee that our province supports the section that is in the bill.

Hon. Mr. HAIG: Which section is that?

Mr. MACPHERSON: The section on competitive rates, Senator Haig. Now, there has been opposition to this by the Canadian Pacific; but may I say that the

section as it reads is permissive. The section as it reads is intended to put the Board of Transport in a definite position, and we do not expect the Board of Transport to do that which should not be done. But one of the difficulties that has developed in connection with the railway problem in this country in the last twenty years has been due to competitive rates.

The DEPUTY CHAIRMAN: The Canadian Pacific was against the detail of direction, but you are in favour of that?

Mr. MACPHERSON: We are in favour of that, and I will briefly indicate why. We come from a province which is entirely dependent on rail transportation. We do not complain now about either of the great railway systems. The service they are giving is service we appreciate. But we are entirely dependent upon them. We have not the motor traffic that they have in Ontario and Quebec, and we have not the highways; that is, although we have many miles of highways we cannot hard-surface them in the way that you can have all-weather transport. Climatic conditions also enter into the picture. In Central Canada you can truck. You can use pipe lines to get some commodities out of our country. But we cannot get our wheat out by pipe lines or by air or by truck. We cannot get many of the commodities we import except by rail. Consequently, so far as we are concerned, we are dependent on railway transportation. There is not a complete monopoly. Locally there is not a monopoly; there is some truck competition within the province; but for the long haul we depend entirely on the railways. The difficulty that developed during the depression years was that, with truck competition, particularly in Ontario and Quebec, with legislation as it was, rates could be slashed, revenue could be lowered, and the result was, and is, that the long-haul traffic—which applies as far as our country is concerned—is the traffic which would have to bear the load. It must be remembered that in railway revenues it is freight which carries the load. Passenger traffic is a losing proposition. Both the Canadian National and the Canadian Pacific Railways lose large sums of money in operating their passenger trains. Freight must make up the deficit, and since we are bound to pay the freight rates, it is a matter of tremendous importance to us that the Board of Transport have that power and have that detail before them so that they can put brakes on competitive rates if they should unreasonably occur. We favour the details, Mr. Chairman, as they are given there.

Hon. Mr. HAIG: Mr. MacPherson, might I ask a question? This has troubled me considerably. The same argument was put up by Alberta. Do you suggest that the railroads would cut their rates to meet competition just for the pleasure of cutting them, or would they cut them only if and when they knew that if they did not cut them they would lose the traffic?

Mr. MACPHERSON: Well, of course, Senator Haig, considering competitive rates at they have been cut in Ontario and Quebec, the position is that you get conditions where you have had express rates cut, as well, to very low points, in order to get the traffic; and it has been the contention of the provinces before the Board of Transport that competitive rates were cut, in instances, to the point where they could not have been remunerative. We think that it is proper that the Board should be in a position where it can, if it will, require information and be sure that the competitive rate is one that is compensatory and one that is not carried at a loss.

Hon. Mr. HAIG: You are missing my point. I cannot imagine any business man in any occupation on earth giving a rate on which he is going to lose money. It seems to me they would be riding into a wreck. The Canadian National might do it, but they just fall back on us taxpayers and we pay the shot. The C.P.R. cannot do that.

Mr. MACPHERSON: My answer to that is this. You see in these days something in the press, and this body will probably hear more in the next few days,

of "loss leaders" in business. Loss leaders may exist in the transportation world as in the mercantile world, and there may be reasons—it is most difficult for the provinces to establish this, but I can assure you that it has been asserted, and I can say this further, that the recommendations in connection with the competitive rates section are recommendations which are in the report and which have come into the report after one hundred and fifty days of hearings and after much evidence and much argument and much consideration on behalf of the Commission.

All I can say to you, finally, is that so far as my province is concerned it supports the section as it will come in the proposed bill.

The DEPUTY CHAIRMAN: Could you put your finger on a loss leader in railway transportation?

Mr. MACPHERSON: Well, I don't want to name any commodity.

The DEPUTY CHAIRMAN: Of course you might name grain.

Mr. MACPHERSON: No, that is a different proposition. People talk to us about Crowsnest rates. Well now, so far as Crowsnest rates are concerned I would be delighted to expound them; but that is a situation by itself.

The DEPUTY CHAIRMAN: I just want to discover your analogy.

Mr. MACPHERSON: The question of grain follows an agreement entered into at a time when the West was being settled, when the question was raised as to whether the grain itself could be exported because it was so far from seaboard. Our friends of the Canadian Pacific who had entered into the agreement had great areas of land in Western Canada at the time, and the settlement of that land was most important to them, just as it was to the country as a whole. The fact is that it is not purely an accident that grain is the only commodity which is not dealt with by the Board of Transport Commissioners. It has to do with a national policy.

Hon. Mr. HAIG: Does it never end if the cost of living goes up so that the dollar is only worth, say, 40 cents? You are talking about equalization. Surely you should give the company the same chance to equalize on the value of the dollar?

Mr. MACPHERSON: In the matter of the cost of living we do not know where the ceiling is going to be. Likewise, in the matter of commodity prices we do not know where the ceiling is going to be. I can conceive that that might come if inflation gets to the point where grain is at a price completely out of line with the cost of production, but that point has not been reached in Western Canada.

Hon. Mr. HAIG: But wages have been doubled on the road since that agreement was made.

Mr. MACPHERSON: They have gone up, and they have been doubled on the farm as well.

Hon. Mr. HAIG: That does not affect the railroad. The cost of hauling grain has at least doubled what it was before, as far as grain is concerned in any event.

Mr. MACPHERSON: If agriculture in Western Canada has to pay rates under which it cannot survive, it may be in the best interests of this country that it fail. But if agriculture is to survive, then there must be some reasonable spread as between the cost of production and what the producer is to get. As I say, while I cannot predict where inflation is going or what the price of grain may ultimately reach, at the present time the situation is one where the very basis of agriculture is involved.

Hon. Mr. HAIG: When the grain was carried on the Crowsnest rate it was worth 50 cents a bushel, and today it is worth $1.80 a bushel. There has been no change in the charge.

Hon. Mr. ASELTINE: You are not advocating a change, are you?

Hon. Mr. HAIG: No. If I were an eastern Canada senator I would want to know why they keep the same rate on grain that sold for 50 cents in 1899 and which today sells for $1.80.

Hon. Mr. WOOD: They haul twice as much.

Mr. MACPHERSON: There has been a complete change in technique so far as transport is concerned. Whereas formerly you had wooden box cars that carried 60,000 pounds, today you have steel cars that carry 120,000. You have trains of different lengths; you have motive equipment that is entirely different; you have provision at the head of the lakes for unloading and for turning around the cars more quickly; you have country elevators very much improved over what they were. All these technical advances have made it better and cheaper for the railways.

Hon. Mr. HAIG: I do not want to argue with you any more, but they do not make as much money now as they did forty years ago on that haul.

Mr. MACPHERSON: That is quite right.

Hon. Mr. HAIG: Well, that is the answer.

Mr. MACPHERSON: They probably do not make as much money now, but there is this fact to remember—that when we had a glut of grain in the country in the thirties and when wheat was below 50 cents a bushel to the farmer at the elevator, there was no reduction at that time in the Crowsnest or other rates. They were rigid. Now, another section in the bill which we support is the section which is known as the one and one-third section. That will not affect our province as much as it will the province of Alberta. It will affect the western part of our province more particularly than it will the eastern part of our province, but it will assist the western part. If, as has been indicated in the other committee by representatives of the railway, transcontinental rates are now remunerative and compensatory—that is, if it pays to haul on these rates to Vancouver—then surely it is not out of line for the railways to be paid one-third more to intermediate points. We think this is reasonable, and it is because we think it is reasonable that we are supporting this section. I do not know that there is much more I can say to the committee. I have tried to indicate to you that so far as the province of Saskatchewan is concerned it is supporting this bill. It is urging that amendment to section 18 because it feels that it is consistent with the report and with the contention of the Commissioners that the people who pay the freight bill should have that burden lessened. We want it made certain that this principle should be written into the bill.

Hon. Mr. HAIG: Why do you want that incorporated in the bill instead of having that power put in the regulations, as has been suggested by the representatives of the Canadian Pacific? What is the difference?

Mr. MACPHERSON: It is not that we do not trust the C.P.R. or the Board of Transport Commissioners. After all, we say that if this $7 million—

The DEPUTY CHAIRMAN: I think you are at cross purposes.

Hon. Mr. HAIG: I thought you were referring to these competitive rates. I follow you in the $7 million and I agree with you. It was the regulation with regard to competitive rates that I was asking about.

Mr. MACPHERSON: We feel very definitely in that connection and in the report there are quite long references to the submissions and the arguments about this. We feel very definitely that the situation is not going to embarrass the railways unduly, but that it will put the Board of Transport Commissioners in the position where they can put the brakes on what we feel were abuses during the years I referred to.

Hon. Mr. HAIG: As I read the report it did not say that this would be put in the Act, but would be given as part of the regulations. It seems to me that that is the way the report read.

Mr. MACPHERSON: We cannot be sure of that. We want this done. If the Board of Transport Commissioners passes regulations which would do the same thing, then that might be all right.

Hon. Mr. HAIG: I thought that is what was recommended.

Mr. MACPHERSON: I think they went further than that. What I say is that the Railway Act is being amended, and if the Act itself says this is to be done, then we know it will be done.

The Board of Transport Commissioners have a job of the greatest magnitude to do in connection with this equalization. They have to work out the details of it, and that is a tremendous task. In these circumstances I think the Board should have that direction on competitive rates given to them by parliament. That would save the Board from being exposed to a request to amend the regulations. We feel that any grievance that may exist can best be taken care of by the adoption of the section as I have given it to you.

Mr. Chairman and honourable gentlemen, with the amendment to section 18 of the bill, the Province of Saskatchewan supports the bill as it has been presented.

The DEPUTY CHAIRMAN: Thank you very much, Mr. MacPherson, for your very clear statement.

Shall we now hear from Mr. Shepard?

Hon. Mr. ASELTINE: He represents Manitoba, and we want to hear from that province. It is a very important province.

Hon. Mr. HOWDEN: That is right.

Hon. Mr. HAIG: The population of our province at least increased in the last ten years.

The DEPUTY CHAIRMAN: Then I will call upon Mr. Shepard. I understand that Mr. Shepard has a brief and that copies of it have been distributed to members of the committee.

Mr. C. D. SHEPARD, K.C., of counsel for the Province of Manitoba: Mr. Chairman and honourable gentlemen, I am glad to hear some complimentary remarks made about Manitoba before I begin.

Hon. Mr. ASELTINE: I used to live in Manitoba at one time, and I am always interested in it.

Mr. SHEPARD: In principle I think I can express agreement with my friend who has just spoken for the Government of the province immediately to the west of ours. The two governments are not of the same political stripe, but in the matter of freight rates we have most of the time been in agreement, though our presentations before the Royal Commission differed in some respects.

Perhaps I should say first that Manitoba considers the Royal Commission's report to be a good document, which substantially contributes towards solving this country's transportation problem; and we feel that Bill 12, which has come out of that report, is a conscientious effort on the part of the government to implement some of the recommendations in the report. I know you are all aware that the Royal Commission sat for a very great number of days and heard a good many submissions—I think its proceedings ran to about 25,000 pages of transcript—and that most of the matters dealt with in the report were thoroughly thrashed out pro and con before the Commission.

As to Bill 12, Manitoba supports it, except for the section dealing with what we have chosen to call the one-and-one-third rule. I have so stated to the Commons Committee.

Hon. Mr. ASELTINE: I was going to ask you about that rule.

Mr. SHEPARD: I think you have all had copies of the formal submission which was made before the Commons Committee on behalf of the Government of Manitoba, and I presume it will not be necessary for me to go into it in detail here.

Hon. Mr. ASELTINE: We have lots of time. Tell us how the proposed one-and-one-third rate would affect Manitoba.

Mr. SHEPARD: Perhaps the best way to do that, sir, would be to ask you to picture in your mind a map of Canada, with Toronto, Winnipeg and Vancouver in their respective locations. The design of the national freight rates policy is, so far as possible, to have a uniform rate scale in the country. Now, the rates from Toronto—I am speaking of Toronto for purposes of illustration only—the rates from Toronto to Vancouver are so-called competitive rates, transcontinental rates. The competition which they were intended to meet started initially through the opening of the Panama Canal, but now, instead of water competition, the Canadian railroads have to meet competition from American railroads to the south. And as you go south in the United States you find that the southern transcontinental railroads there have to meet quite substantial competition from the Panama Canal on the relatively short haul from the south-east coast to the south-west coast in the United States.

The so-called one-and-one-third rule, sir, would have the effect of imposing a ceiling on rates to any intermediate point. Take the city of Edmonton as an example. If the rate on a certain commodity from Toronto to the coast is $1.50, it might be $3 to the city of Edmonton, measured on a mileage basis. But under the one-and-one-third rule the rate to Edmonton, which is deemed to be an intermediate point, would be limited to one-and-one-third times the transcontinental rate of $1.50, which would be $2. That, of course, would have the effect of restricting the Winnipeg distributors market, and from a standpoint of pure self interest—and no one can criticize that, for that is what sparks a man in his business—the Winnipeg distributors do not like the one-and-one-third rule. They do not like it because it would cut down on the area of distribution, an area which has existed for upwards of fifty years. Winnipeg was once a bigger distribution centre than it is now, but still some businesses would be adversely affected by this rule today.

However, the Manitoba Government's position on this particular rule is not dependent entirely on the influence that it would have upon the Winnipeg business. What we think is more important is that it constitutes a violation of the main general principle of the bill. That main general principle is the establishment as a national freight rates policy of uniform class rates scales and uniform commodity scales, on a mileage basis. I do not think that anyone would suggest that freight rates from Toronto to Winnipeg should not be less than freight rates from Toronto to Edmonton, on a straight mileage basis; there has never been any dispute between the western provinces on that point. But the bill, having introduced a general policy of standard mileage rates right across the country, turns about in this one section and says, no, we shall not have that, but we shall have a rate of one-and-one-third to intermediate points, and a ceiling will be imposed, a ceiling not related to national freight rates policy. And to my way of thinking it ends up as a case of the tail wagging the dog. You have a competitive rate to the coast, and then you impose a ceiling, which is limited by an arbitrary relationship to this competitive rate.

The DEPUTY CHAIRMAN: How does that function as between Winnipeg and Regina?

Mr. SHEPARD: Well, I think Mr. MacPherson explained that Saskatchewan is sort of split up the middle on the one-and-one-third rule. I understand

that roughly the west half of the Province of Saskatchewan would get some benefit from the rule.

The DEPUTY CHAIRMAN: Does it imperil Winnipeg's position as a distributing centre westward? That is, is the freight rate to Regina under the one-and-one-third rule the same as the freight rate to Winnipeg?

Mr. SHEPARD: On some commodities it could be, sir. That is the basis of the Winnipeg distributors' complaint.

Hon. Mr. HORNER: In order that the railways may be able to function—and we are all interested in that—they must have some revenue. Now, in Winnipeg there is a fleet of trucks. I can see the railways' point of view, and why they are anxious for this one and one-third basis. There is a lot of stuff going out from Winnipeg by truck, and is hauled to Calgary and Edmonton. I can see that a through rate to Edmonton would serve the railways purpose and help us in Saskatchewan.

Mr. SHEPARD: I do not have any figures with me, sir, but I think you would find if the figures are available that the total percentge of large shipments of truck over long distances west of Winnipeg is very small.

Hon. Mr. HORNER: To see them on the road, one would not think so.

Mr. SHEPARD: Do I understand from your comment that the railway favours this one and one-third rule?

Hon. Mr. HORNER: I imagine they would.

Mr. SHEPARD: No, they do not, sir. The result of the one and one-third rule is that the railways will lose revenue. I gave an illustration of that a moment ago.

Hon. Mr. HORNER: That is what they formerly did, but surely that is an unfair situation; it has been a bitter thing in Calgary and Edmonton, that they could ship to Vancouver and back for less than they could ship direct.

Mr. SHEPARD: That is right.

Hon. Mr. HORNER: Surely that was a waste.

Mr. SHEPARD: Initially the freight rates structure was built on a mileage basis, because it cost more to take a shipment 200 miles than 100 miles and nobody quarrelled with that. But what has happened is this: Competitive rates were put into effect, and the people at the coast got certain advantages. Then people in Alberta, for instance, started looking at the competitive rates rather than at the mileage rates and concluded that they must have something as good as their friends were having.

Hon. Mr. REID: Did the competitive rate not apply eastward as well as westward? I appeared before the Commission, and showed them that grain was being hauled 1,160 miles cheaper than through Crowsnest Pass rates to British Columbia.

Mr. SHEPARD: I do not remember the details of that.

Hon. Mr. REID: The rate was eastward as well as westward.

Mr. SHEPARD: There was something to that effect.

Hon. Mr. HAIG: Mr. Sheppard, on that same subject, at the present moment the C.P.R. hauls goods from the coast to Edmonton at the same rate as the C.N.R.

Mr. SHEPARD: Yes.

Hon. Mr. HAIG: But the C.P.R. has to haul it 200 miles farther?

Mr. SHEPARD: That is right.

Hon. Mr. HAIG: And the C.N.R. hauls it from the coast to Calgary, a distance of an extra 200 miles, and they charge the same as the C.P.R.?

Mr. SHEPARD: That is correct.

Hon. Mr. HAIG: What would happen if the rate to the coast was uneconomical to the railway, and they lost money on those internal rates? Would they have to increase the rates to the coast?

Mr. SHEPARD: Yes.

Hon. Mr. HAIG: That is what they would do?

Mr. SHEPARD: That is exactly what would happen.

Hon. Mr. REID: How would they lose on the B.C. rate when they are hauling grain twice the distance for less?

Mr. SHEPARD: I do not follow that, sir.

Hon. Mr. REID: When the Crowsnest Pass rates are discussed in British Columbia, and competitive rates, the railways talk about the loss on revenues, but not the loss on the B.C. competitive rates.

Mr. SHEPARD: I do not think the railways would say that their competitive rates to the west coast are losing money. The level on the transcontinental rates is within the discretion of the railways, and certainly on the proceedings I have appeared with the railways before the Transport Board, they have made it quite clear that they think, in their best judgment, applied by whatever test they choose, that there is not a competitive rate in the system that is not making money.

Hon. Mr. REID: But they argue one way, and then they argue the other way. What about the competitive rates for grain for domestic use?

Mr. SHEPARD: This is the Crowsnest Pass rates for domestic grain to the west coast. Is that what you are referring to?

Hon. Mr. REID: There are two rates in British Columbia: The competitive rates and the domestic rates. One is 20 cents a hundred for grain, and the other is about 41½ cents.

Mr. SHEPARD: That is correct.

Hon. Mr. REID: When we argue it from the point of view of the export rate, they take the stand that they are carrying that for trade purposes, on a competitive basis.

Mr. SHEPARD: Under the freight rate structure now, they are entitled to say that.

The DEPUTY CHAIRMAN: We have had a representative here from Winnipeg, and you are from the province of Manitoba?

Mr. SHEPARD: Yes.

The DEPUTY CHAIRMAN: It may be that Winnipeg, being a distribution centre, is in a different position. You have not dealt with the question of subsidy. Have you any definite ideas on that?

Mr. SHEPARD: We are in favour of $7 million subsidy, as it is spelled out in the amendment. I think probably the committee is aware that when we speak of equalization, it applies to only about 50 per cent of the traffic; and when the railways go before the Transport Board, as they are now, seeking increases in freight rates, any increase authorized by the Board as a result of these hearings will apply only to about 50 per cent of the traffic hauled by the Canadian railways. It excludes the grain rates, the international rates, the competitive rates and the Maritime freight rates. The result is that if there is a 10 per cent or a 20 per cent increase in freight rates it is imposed on roughly half of the total freight revenue.

The reason we say that the subsidy is justified over the "bridge" area is that the bulk of the total freight rate increase authorized, we feel, will go on

the long haul traffic which has not got the advantage of competition or the depressing effect of competition that exists elsewhere in the country.

The amendment to section 18, as drafted, is a little looser than we hoped to see, but I think the wording will perhaps work out all right. It would leave a substantial discretion to the Transport Board.

My friend Mr. MacPherson was asked by Senator Haig if he would favour a division of the subsidy between the two railways on a fifty-fifty basis. I would say that would greatly simplify the matter.

Hon. Mr. HAIG: You would not object to that?

Mr. SHEPARD: No, I would not.

Hon. Mr. BAIRD: Do you want to know how the money is to be spent by way of reduction of tariffs?

Mr. SHEPARD: Well, if a $7 million subsidy is paid, half to each road, as far as Manitoba is concerned we do not care how it is spent, as long as it is directly reflected in a reduction in the freight rates through that area.

Hon. Mr. BAIRD: You contend that it would reduce the rates by 8 per cent to 10 per cent.

Mr. SHEPARD: Yes, sir.

Hon. Mr. HAIG: That is fair.

Mr. SHEPARD: I do not know whether you want me to go further in my argument.

The DEPUTY CHAIRMAN: I think you have dealt with it pretty fully. I do not think the committee wishes you to read the brief. These last two presentations have been quite clear.

Hon. Mr. HAIG: I would like to say, Mr. Chairman, that Mr. MacPherson and Mr. Shepard are a credit to the Bar in each of their provinces, and I am glad I live in that part of the country.

Mr. SHEPARD: Thank you very much.

The committee adjourned to the call of the Chair.

1951

THE SENATE OF CANADA

PROCEEDINGS

OF THE

STANDING COMMITTEE

ON

Transport and Communications

On the Report of the Royal Commission on Transportation,
And the Bills Implementing the said Report.

No. 6

WEDNESDAY, DECEMBER 5, 1951

The Honourable Adrian K. Hugessen, Chairman

WITNESSES:

Mr. D. K. MacTavish, K.C., Ottawa, Ontario, representing the Bell Telephone Company of Canada, and the British Columbia Telephone Company.

Mr. W. J. Matthews, Director, Administration and Legal Services, Department of Transport.

Mr. W. Benidickson, M.P., Parliamentary Assistant to the Minister of Transport.

Mr. J. L. Knowles, Special Adviser to the Minister of Transport.

OTTAWA
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CONTROLLER OF STATIONERY
1951

STANDING COMMITTEE

ON

TRANSPORT AND COMMUNICATIONS

The Honourable ADRIAN K. HUGESSEN, *Chairman*

The Honourable Senators:

Aseltine
Baird
Davis
Dessureault
Gershaw
Grant
* Haig
Hawkins
Hayden
Horner
Hugessen
Kinley
McLean
Nicol
Paterson
Raymond
* Robertson
Reid

* Ex officio member.

ORDER OF REFERENCE

EXTRACT from the *Minutes of the Proceedings* of the Senate, Friday, 19th October, 1951.

Ordered, That the Standing Committee on Transport and Communications be authorized to examine and report upon the Report of the Royal Commission on Transportation and especially upon the proposal to equalize freight rates and the effect of such proposal on specific areas of Canada.

That the said Committee be empowered to send for persons, papers and records.

That the Committee be authorized to sit during adjournments of the Senate.

Attest.

L. C. MOYER,
Clerk of the Senate.

96876–1½

MINUTES OF PROCEEDINGS

WEDNESDAY, December 5, 1951.

Pursuant to adjournment and notice the Standing Committeee on Transport and Communications met this day at 10.30 a.m.

Present: The Honourable Senators:—Hugessen, Chairman; Baird, Campbell, Gershaw, Haig, Hawkins, Horner, Raymond and Reid. 9.

In attendance: Mr. J. F. MacNeill, K.C., Law Clerk and Parliamentary Counsel and the official Reporters of the Senate.

Bill 12, An Act to amend the Railway Act, was considered.

Mr. D. K. MacTavish, K.C., Ottawa, Ontario, representing the Bell Telephone Company of Canada, and the British Columbia Telephone Company, was heard in objection to clause 12 of the Bill.

The further consideration of the Bill was postponed until this afternoon when the Senate rises.

Bill 6, An Act to amend The Canadian National-Canadian Pacific Act, 1933, was read and considered.

Mr. W. J. Matthews, Director, Administration and Legal Services, Department of Transport, was heard in explanation of the Bill.

It was resolved to report the Bill without any amendment.

Bill 7, An Act to amend the Maritime Freight Rates Act, was read and considered.

Mr. W. J. Matthews, Director, Administration and Legal Services, Department of Transport, was heard in explanation of the Bill.

It was resolved to report the Bill without any amendment.

At 11.00 a.m. the Committee adjourned.

At 4.45 p.m. the Committee resumed.

Present: The Honourable Senators:—Hugessen, Chairman; Baird, Campbell, Dessureault, Haig, Hawkins, Hayden, Kinley, McLean, Paterson and Reid. 11.

In attendance: Mr. J. F. MacNeill, K.C., Law Clerk and Parliamentary Counsel, and the official reporters of the Senate.

On Motion of the Honourable Senator Hayden, seconded by the Honourable Senator Reid, it was RESOLVED to report recommending that authority be granted for the printing of 300 copies in English and 100 copies in French of the proceedings of the Committee upon the Bill 6, An Act to amend The Canadian National-Canadian Pacific Act, 1933; Bill 7, An Act to amend the Maritime Freight Rates Act and Bill 12, An Act to amend the Railway Act, and that Rule 100 be suspended in relation to the said printing.

The Committee resumed consideration of Bill 12, An Act to amend the Railway Act.

Mr. W. J. Matthews, Director, Administration and Legal Services, Department of Transport; Mr. W. Benidickson, M.P., Parliamentary Assistant to the Minister of Transport, and Mr. J. L. Knowles, Special Adviser to the Minister of Transport, were heard in explanation of the Bill.

The further consideration of the Bill was postponed until Tuesday, December 11, 1951, at 10.30 a.m.

At 5.45 p.m. the Committee adjourned.

Attest.

JAMES D. MACDONALD,
Clerk of the Committee.

MINUTES OF EVIDENCE

THE SENATE

OTTAWA, Wednesday, December 5, 1951.

The Standing Committee on Transport and Communications to which was referred Bill 6, an Act to amend the Canadian National-Canadian Pacific Act, 1933 and Bill 7, an Act to amend the Maritime Freight Rates Act, met this day at 11 a.m.

Hon. Mr. HUGESSEN in the Chair.

The CHAIRMAN: Gentlemen, we have a quorum, and I suggest the committee come to order. The committee is aware of the circumstances under which we meet this morning. Bills 6 and 7 have been referred to us, after second reading in the Senate; but Bill 12 has not yet been referred to us. I suggest that our first order this morning might be to consider Bills 6 and 7, which are quite simple and non-contentious. We have here Mr. Matthews of the Department of Transport, who is ready to make an explanation to the committee.

Hon. Mr. HAIG: Mr. Chairman, before you introduce Mr. Matthews, may I say that I understand Mr. D. K. MacTavish is here, and he might be heard first in order that he can attend another committee meeting. I understand his presentation is short.

The CHAIRMAN: If that is the case—

Mr. MACTAVISH: I shall be very short, Mr. Chairman, but I do not wish to inconvenience the committee.

The CHAIRMAN: If it is the desire of the committee, we shall hear Mr. MacTavish first. I understand he wants to make some new representations on behalf of the telephone company, with respect to the suggested amendments to Bill 12.

Mr. MACTAVISH: That is right.

The CHAIRMAN: After we have heard Mr. MacTavish, we can deal with Bills 6 and 7. I understand that a caucus of both parties has been called for 11 o'clock this morning, and members of both sides may want to go to their respective caucuses. Perhaps we should adjourn after consideration of these two bills, until after the Senate rises this afternoon. I understand that there is not much on the order paper. If it meets the wishes of the committee, I shall arrange to have Mr. Matthews, and perhaps Mr. Knowles who is the drafting expert, to give evidence before the committee this afternoon. Does that meet with the approval of the committee?

Hon. Mr. HAIG: Yes.

The CHAIRMAN: Very well, Mr. MacTavish, will you come forward?

D. K. MACTAVISH, K.C.: Thank you, Mr. Chairman.

Mr. Chairman and Gentlemen, I appear this morning on specific instructions from the Bell Telephone Company and, if I may say so, rather qualified instructions from the British Columbia Telephone Company, to whom I made a report on the matter that I am going to mention, but due to the delay in the mails the report did not reach the company. I spoke to the company officials last evening, and they authorized me to say that they associate themselves with my representations on behalf of the Bell Telephone Company.

The point that arises is one of drafting, and it is possible that there may be nothing to it, but both companies are very much concerned. If I may, I would draw the matter to your attention.

I refer first to section 332A, on page 6 of the bill, having to do with statutory freight rate equalization. If you will be kind enough to turn to section 12 on page 8 of the bill, you will note that there is a new section inserted there, which reads as follows:

> such telegraph and telephone tolls may be dealt with by the Board in the same manner as is provided by this Act with respect to freight tariffs, and all the provisions of this Act applicable to companies thereunder with respect to *freight* tariffs and tolls shall in so far as they are applicable, and not inconsistent with the provisions of this section, apply to the company with respect to such telephone and telegraph tariffs and tolls.

Obviously, Mr. Chairman and Gentlemen, the fear of both these companies is that the wording of the section which I have just read might make applicable to the telephone companies the freight rate equalization which would, from the company's point of view, not only be an intolerable situation but one, I think, that could not be effectively workable, having regard to the very special nature of telephone tolls and telegraphs.

Hon. Mr. HAIG: What amendment do you suggest?

Mr. MACTAVISH: I do not have an amendment to offer at the moment, sir. I had a moment to mention this matter to Mr. MacNeill this morning, and also to talk to Mr. Matthews on the telephone. Possibly, with the committee's consent, I might get together with Mr. MacNeill and Mr. Matthews; in the meantime I will have more specific instructions. The Bell Telephone Company's draftsmen have made suggestions, but unfortunately they have not reached me in the mail; they will be either on the teletype or in the mail later today. I apologize for coming in this way to the committee, but this matter became apparent to those concerns at a very late stage in the passage of the bill, and I felt that it was only proper that I should appear and put the situation before you.

Hon. Mr. REID: It did not appear in time to make representations before the House of Commons Committee?

Mr. MACTAVISH: No; it passed the House of Commons Committee and was not discovered. I was quite familiar with the freight rate equalization section, but in my examination of the bill I had no occasion to look at section 12; and, strangely enough, no one else noticed it, until a day or two ago it was called to my attention by Mr. Munnoch, chief Counsel for the Bell Telephone Company, who immediately got in touch with me.

Hon. Mr. HAIG: I read the section, Mr. Chairman, and I thought it affected the telephone and telegraph service of the railway companies.

Mr. MACTAVISH: I think it is fair to say this, Mr. Chairman and Gentlemen, that I feel it could not have been the intention of the draftsmen of the bill to apply rate equalization tolls and tariffs. I have no authority for saying that.

Hon. Mr. CAMPBELL: That is your chief objection?

Mr. MACTAVISH: Yes; that is the danger.

Hon. Mr. CAMPBELL: This section as now drafted would require the Board to apply the equalization policy.

Mr. MACTAVISH: Yes; to telephone tolls.

Hon. Mr. CAMPBELL: If you made an exception as to that section of the bill, would it be satisfactory?

Mr. MACTAVISH: That is correct.

Mr. MACTAVISH: We would be perfectly satisfied. We felt it better to raise the question now while something could be done about it, than to create any further difficulty. We feel the section as it now stands is not clear, and it should be made clear.

Hon. Mr. HAIG: I would move, Mr. Chairman, that this matter be held over until Mr. MacTavish, Mr. MacNeill and others get together and submit a draft to us.

The CHAIRMAN: One suggestion occurs to me, whether section 12 is necessary. I am under the impression that under the Railway Act as it now stands the Board of Transport Commissioners has all the authority over telephone tolls that is required. Perhaps Mr. Matthews will be able to enlighten us on that point later, as to whether this section is necessary, particularly if it imports this doubt into the interpretation of the Act. We may well decide that it is not necessary to insert the section at all.

Hon. Mr. REID: I have occasion to read the order in council which sets out the duties and responsibilities of the Commission, and it has nothing to say about telephone generally.

The CHAIRMAN: This does not flow from the Turgeon Commission in any way.

Hon. Mr. REID: No, it does not.

Hon. Mr. HAIG: I think it is intended to insert a section to apply to the telephone and telegraph services of the railway.

The CHAIRMAN: That may be so. Senator Haig moves that this matter be held over until a discussion can take place between Counsel for the telephone company and Counsel for the Department of Transport.

Hon. Mr. CRERAR: I am not a member of the committee, Mr. Chairman, but I would like to make an observation. This section is only permissive; it is not mandatory on the Board.

Hon. Mr. CRERAR: There is nothing in the section that compels the Board to equalize. I take it that it may consider, and it may deal with an order to conform with a principle, in the same way as it may deal with anything else.

Mr. MACTAVISH: Yet, we felt there was a danger to leave it that way.

The CHAIRMAN: Is the committee agreeable to have the matter disposed of temporarily in that way?

Hon. Mr. HAIG: Yes.

The CHAIRMAN: Thank you, Mr. MacTavish.

The CHAIRMAN: Well, gentlemen, we have before us, officially referred to us by the Senate, Bills 6 and 7. Bill 6 is an Act to amend The Canadian National-Canadian Pacific Act. Would the committee like to hear Mr. Matthews with respect to that bill?

Hon. Mr. HAIG: It is simply to carry out the recommendation about reports, is it not?

The CHAIRMAN: Yes. It is non-contentious, I understand.

Hon. Mr. REID: If Mr. Matthews is going to speak, I would like to ask him a question regarding this. The question is: the commission was to investigate and recommend regarding the Canadian National and Canadian Pacific Railways, but this bill before us particularly deals with the Canadian National Railway. As a matter of fact, all through the commission's report you will

find that the C.P.R. is the chief witness, and very often the Canadian National just concurs. But in reading the Order in Council I take it that both railways were to be asked. Yet this bill here before us deals entirely with the Canadian National. I am wondering about that matter,—whether the Canadian Pacific has been left out entirely from the commission's recommendation.

The CHAIRMAN: I think the answer to that is this. The Canadian National-Canadian Pacific Railway Act, which was passed in 1933, included a clause requiring the Canadian National in its annual report to specify certain matters with respect to what had been done regarding the economies that might have been achieved by co-operation. This is simply an amendment to that bill, making it clearer just what the Canadian National has to report on that matter in its annual report to parliament. Is not that so, Mr. Matthews?

Mr. MATTHEWS: Yes, Mr. Chairman.

Hon. Mr. REID: That would answer that.

Mr. MATTHEWS: The Canadian National makes an annual report to parliament, but the Canadian Pacific does not make an annual report to parliament. This, of course, would have to go into the Canadian National's report if it were being submitted to parliament.

Hon. Mr. HAIG: You do not object to it?

Mr. MATTHEWS: No, no. It is very simple.

The CHAIRMAN: Any other question with respect to Bill 6?

Hon. Mr. HAIG: Pass it.

The CHAIRMAN: Shall clause 1 carry? Shall the title carry? Shall I report the bill without amendment? . . . Carried.

The CHAIRMAN: We come next to Bill 7, an Act to amend the Maritime Freight Rates Act. Have you a word of explanation, Mr. Matthews?

Mr. MATTHEWS: Mr. Chairman and honourable senators, this is a simple bill, to implement two recommendations made by the royal commission. The first one has to do with traffic moving westbound rail and lake and also rail, lake and rail. The Maritime Freight Rates Act gives the preference to movements which are westbound: it says "all rail", and the Board of Transport Commissioners has interpreted that to cover movements rail and lake such as a movement from Moncton to Port McNicoll and then up to the Great Lakes to Fort William and from thence on to Western Canada. All this amendment is for is to carry out what the Board of Transport Commissioners have been doing ever since the act went on the books.

Hon. Mr. CRERAR: Was it suggested that the board had been acting beyond their legal powers?

Mr. MATTHEWS: Well, possibly. They meant to include that traffic which went rail and lake.

Hon. Mr. CRERAR: This is to confirm something they have been doing?

Mr. MATTHEWS: That is right.

Hon. Mr. CRERAR: Have they been doing it lately?

Mr. MATTHEWS: I do not know. They are a court. I presume it is legal.

Hon. Mr. CRERAR: Well, then, what is the need of this?

Mr. MATTHEWS: Well, this certainly would clear up the matter if there is any doubt about it. I do not think the case has ever been taken to the Supreme Court, and I do not think we can say they have been acting illegally.

The CHAIRMAN: And the second provision?

Mr. MATTHEWS: The second provision has to do with accounting. Section 6 of the Maritime Freight Rates Act states that separate accounts are to be kept for the revenues and expenses of the eastern lines, and the amount of the deficit is to be included in a separate item in the estimates submitted to parliament by the Canadian National Railways. Now, when the Maritime Freight Rates Act was passed, the accounts and the deficit for the eastern lines were kept separately, and the amount was voted annually by parliament, but the deficits of the other lines of the C.N. were not voted by parliament, but bonds were issued or loans were made by the government to cover them. The Maritime Freight Rates Act was passed in 1927. When the Canadian National—Canadian Pacific Act was passed, provision was made for paying the annual deficit of the Canadian National as a whole. So when the Canadian National—Canadian Pacific Act was passed it then became unnecessary to vote a separate deficit for the eastern lines. Notwithstanding that, the Canadian National Railway kept separate accounts until 1939, and then, during the war, the accounting got so heavy that they were unable to do that, so they put the accounts together in the system, and at the end of the year they adopted a formula by which they would try and work out approximately the deficit of the eastern lines; and the Royal Commission seemed to think it was quite unnecessary, and that the accounts should be all lumped together and the deficit voted as a whole. That is why this amendment is put in—to repeal that section 6 of the act, in accordance with the recommendation of the Railway Commission.

Hon. Mr. REID: There is a part of this bill that you have not touched on. If you read section 6, it says:

> For accounting purposes, but without affecting the management and operation of any of the eastern lines, the revenues and expenses of the eastern lines—

The word "deficits" and reference to deficits is only in subsection (2).

Mr. MATTHEWS: That is correct.

Hon. Mr. REID: And you have not dealt with it. Do I take it that that is repealed, and that there will be no separate account of revenues and expenses kept on the eastern lines? Because we in British Columbia have felt that we would like to know where the losses are; and it is very easy to keep the eastern lines separate. That provision is being wiped out. Will that mean that in the future, when we ask the Canadian National how the line is operating, they will say, "Oh, we can't tell; it is all lumped in"? It seems to me that we should be very careful before we consent to the elimination of the provision that revenues and expenses must be kept separate. How otherwise shall we know in the future how things stand? The railway situation is going to get more serious as time goes on, with competition from steamships; and once the St. Lawrence waterways is constructed we shall find there will be more loss of revenue. We want to know.

Mr. MATTHEWS: I think that is correct, senator. They have not, as I said, since 1939 kept the revenues and expenses separately.

Hon. Mr. REID: Then, how do they get around that provision in the act? Have they been violating it, simply ignoring it?

Mr. MATTHEWS: Well, that may be. Let us turn to what the commission had to say on that point.

The CHAIRMAN: Of course, Senator Reid, if you are going to insist on the Canadian National keeping a separate account with respect to all the different sections of its lines, you are going to impose a tremendous accounting burden on it, are you not?

Hon. Mr. REID: I may be wrong, but I understand that Canada, from the railway point of view, is really divided, and that the railway companies can tell you the gross revenue and expenditure of the central part and of the west and of the east. There was a purpose in putting in this provision, and I think that was the purpose.

Mr. MATTHEWS: The royal commission says that section 6 of the act should be repealed.

Hon. Mr. REID: On what page?

Mr. MATTHEWS: On page 236.

Hon. Mr. REID: And do they deal with it?

Mr. MATTHEWS: Deal with it very shortly.

Hon. Mr. REID: They do not say much.

Mr. MATTHEWS: No. They say, "because it apparently serves no useful purpose and is not being complied with."

Paragraph 10 on page 232 of the report reads as follows:

> The Canadian National Railways asked for the repeal of Section 6 of the Maritime Freight Rates Act. The Company says that it does not keep separate accounts for its eastern lines, but collects its share of the subsidies payable under the Act in the same manner as other railways operating in the select territory.

Hon. Mr. CRERAR: Does the C.P.R. have to keep separate accounts?

Mr. MATTHEWS: Oh, no.

Hon. Mr. REID: On what basis, may I ask, can the C.N.R. ask for these subsidies? They must have some figures showing that they are operating at a loss. They must have something to place before the government to support the amount of money they ask for.

Hon. Mr. HORNER: The Maritime Freight Rates is a special lower rate making it possible for them to operate under.

Hon. Mr. REID: We give them a subsidy to make up what they think is necessary to keep them running.

Hon. Mr. HORNER: I know all that, but in the ultimate it does not make much difference because the deficit has to be paid from the public treasury. It may save considerable expense to the C.N.R. by keeping this separate account.

Hon. Mr. CRERAR: Assuming that the C.N.R. shows a profit over all its operations, they would still be entitled to some subsidy for the loss they incur under the maritime freight rates.

Mr. MATTHEWS: That comes under the maritime freight rates, senator. I do not think the C.N.R. goes to the government and asks for any subsidy for the eastern lines.

The CHAIRMAN: I think the position is the other way. The position is that parliament, in the Maritime Freight Rates Subsidy Act, has provided an amount of money to be paid annually to the two railways in order to reduce the rates from this.

Hon. Mr. REID: They must have some figures to base the amount of reduction.

Mr. MATTHEWS: No.

The CHAIRMAN: No, it was simply to give the Maritime Provinces a reduction in rates to pay the railways an amount sufficient to provide for a 20 per cent reduction in the rate.

Hon. Mr. REID: Similar to the $7 million bridge.

The CHAIRMAN: Yes.

Mr. MATTHEWS: Yes, the 20 per cent is voted every year. It is not a subsidy to the C.N.R. but to the Maritimes.

Sections 1 and 2 were agreed to.

The preamble and the title were agreed to.

The CHAIRMAN: Shall I report the bill without amendment?

Some Hon. SENATORS: Agreed.

The CHAIRMAN: Does the committee agree that we meet when the Senate rises this afternoon?

Some Hon. SENATORS: Agreed.

The meeting adjourned.

AFTERNOON SITTING

THE SENATE

OTTAWA, Wednesday, December 5, 1951.

The Standing Committee on Transport and Communications, to whom was referred Bill 12, an Act to amend the Railway Act, met this day at 4.40 p.m.

Hon. Mr. HUGESSEN in the Chair.

The CHAIRMAN: Gentlemen, the Clerk directs my attention to the fact that now that Bill 12 has been referred to us formally we should decide whether we wish to continue having our proceedings printed, as in the past. Heretofore we have had 300 copies in English and 100 copies in French of our proceedings printed. Does the committee feel that we should now adopt the necessary motion to authorize the printing of our proceedings from now on?

Hon. Mr. HAYDEN: I think they should be printed.

Hon. Mr. HAIG: Yes, they should.

Hon. Mr. REID: I agree.

The CHAIRMAN: I have before me a formal motion which, if it is agreed to by the committee, will be reported to the Senate. It reads as follows:

> Your committee recommend that authority be granted for the printing of 300 copies in English and 100 copies in French of the proceedings of the Committee upon Bill 6, an Act to amend the Canadian National-Canadian Pacific Act, 1933; Bill 7, an Act to amend the Maritime Freight Rates Act; and Bill 12, an Act to amend the Railway Act, and that Rule 100 be suspended in relation to the said printing.

Hon. Mr. KINLEY: Do you anticipate much discussion now that the bill is before us, after the extensive representations that have been made?

The CHAIRMAN: There is an officer of the Department of Transport and an expert on traffic who wish to make representations. Also, we have not yet finished with a question which came up this morning in connection with the Bell Telephone Company. And of course there will be our own discussions in connection with the bill when we come to consider it clause by clause. Is the committee agreeable to having this report presented to the Senate tomorrow afternoon?

Some Hon. SENATORS: Agreed.

The motion was agreed to.

The CHAIRMAN: As the committee knows, we have so far not had any representations made to us by anyone from the Department of Transport or by any of the experts who were consulted by the Turgeon Commission. There are present here this afternoon Mr. W. J. Matthews, Director of Administration and Legal Services, Department of Transport, and Mr. L. J. Knowles, an expert on traffic and freight rates who gave evidence before the House of Commons Committee. Perhaps we might begin by hearing them this afternoon and if we do not finish today we can continue early next week.

Hon. Mr. HAIG: Agreed.

The CHAIRMAN: Mr. Matthews, will you be good enough to make whatever representations you wish to the committee?

Mr. W. J. MATTHEWS, Director, Administration and Legal Services, Department of Transport: Mr. Chairman and honourable senators, it is always a pleasure for me to appear before this committee and to try to explain my department's legislation, but I must say that this bill is not an easy one to explain. I am frank to admit that I am not an expert on freight rates, but Mr. Knowles is well qualified to speak on that subject. He is acting now as a Special Adviser to the Minister of Transport, and he was Adviser on traffic matters to the Royal Commission on Transportation. We have no representations to make on the bill, but we are here to assist the committee in every way possible.

Hon. Mr. HAIG: Mr. Chairman, I should like to ask Mr. Matthews a question in order to clear up a point in my mind. I saw some comment in the press, I think it was, that Mr. Matthews did not appear before the House of Commons Committee, and I should like to ask him if he has anything to say about that.

Mr. MATTHEWS: I was there all the time, sir, and I gave some evidence before that committee.

Hon. Mr. HAIG: You gave some evidence there?

Mr. MATTHEWS: Yes, I gave some evidence on the legal interpretation of certain sections.

Hon. Mr. HAIG: But you made no representations on the bill?

Mr. MATTHEWS: No, I did not make any representations, but I spoke to the committee on legal points.

Hon. Mr. FARRIS: Does this bill emanate from your department?

Mr. MATTHEWS: Yes, senator, it is the Minister of Transport's Bill.

Hon. Mr. HAYDEN: And the Minister appeared before the House of Commons Committee?

Mr. MATTHEWS: He appeared before the committee. I understand the Senate Committee has been hearing representations and is very familiar with the bill as it now stands, and if there are any questions or any points that we can clear up we shall be very glad to do so. As the subject is very complicated, Mr. Chairman, I suggest that Mr. Knowles be asked to give evidence and answer any questions that arise in connection with the bill.

The CHAIRMAN: Would the committee like me to suggest to the Minister that he appear before us at a future meeting?

Hon. Mr. HAIG: Let us hear Mr. Knowles first and see what he says.

The CHAIRMAN: Very well.

Mr. W. M. BENIDICKSON, M.P., Parliamentary Assistant to the Minister of Transport: Mr. Chairman, the Minister and I are members of the House of Commons Committee. Because of the St. Lawrence waterways legislation which is before the House, the Minister has asked me to appear here in his stead. Whenever his attendance is specially desired he will appear before you.

The CHAIRMAN: I am sorry, Mr. Benidickson, that I was not aware before of your presence in the room. Will you please come up and sit at the Table?

Mr. Benidickson thereafter sat at the Table.

The CHAIRMAN: Would the committee now like to hear Mr. Knowles?

Some Hon. SENATORS: Yes.

The CHAIRMAN: Mr. Knowles, perhaps you might first explain to the committee your qualifications as an expert on this very difficult subject of freight rates.

Mr. L. J. KNOWLES, Special Adviser to the Minister of Transport: Mr. Chairman and honourable senators, I first started making freight rates for a subsidiary of the Canadian Pacific Railway known as the Kingston and Pembroke Railway. I spent five years in the head office of that company, having to do with all matters in the Traffic Department and, incidentally, freight rates to some extent. Naturally I did not expect to learn all about freight rates by working for that small railroad, so in 1912 I went into the Freight Tariff Bureau of the Canadian Northern Railway. I worked through the three consolidations of the Canadian National system. First of all we consolidated all the lines that the Canadian Northern and the MacKenzie and Mann interests had bought up. We had to consolidate all their freight tariffs and make them into a series of new tariffs. During that time I worked upon the first general rates case before the Board of Railway Commissioners, as it was then known. That was the Western rates case, which lasted from 1912 to 1914, and the Board made some very considerable reductions in western rates. This was the first time that we heard any real story about equalization, and the Board's idea then was to bring the western rates as near as possible to the eastern rates.

Then, in 1918, the government, having acquired the Canadian Northern Railway, decided to consolidate it with the Intercolonial, the National Transcontinental and the Grand Trunk Pacific, and I had to issue the freight tariffs for that consolidation. And in 1923, the government having acquired the Grand Trunk Railway System, it was my job to consolidate a lot of the tariffs for that system too.

Incidentally, I then started appearing before the Interstate Commerce Commission on freight rate matters, because the Grand Trunk had quite a lot of interest in American lines. I was appointed Chief of the Tariff Bureau in 1920, Chief of the consolidated rate section of the Canadian National and Grand Trunk in 1923, Assistant to the Freight Traffic Manager in 1927, and Freight Traffic Manager in charge of the rates of the system in 1941. I had not been very long in that position when I was loaned to the Transport Controller as Executive Assistant, during the latter part of the war. I dealt there with freight rate matters coming under the Transport Controller, and also I wrote the Maximum Carload Orders requiring shippers to fill their cars during the war.

I then returned to the Canadian National, and I have been in and out of the Government service ever since. I was oppointed Adviser to the Royal Commission on Coal along with a representative of the Canadian Pacific Railway in 1946, I think it was, and in 1949 I was appointed Traffic Adviser to the Royal Commission on Transportation. I assisted in formulating the report of that Royal Commission which is now before you. I may say that I returned to the Canadian National in May 1951, was taken out of the traffic department and appointed assistant to the president, Mr. Gordon, to advise him on freight rate matters, until I reach the retirement age, which occurs next January 2nd, less than a month from now.

I hope, Gentlemen, I can speak to you independently on this matter of freight rates; it does not matter to me whether the bill is passed or not, for I am not going to be working under it. I hope, in speaking out of forty-five years experience in freight rate matters, that I can explain a few things, and perhaps clear up in your mind some of the misapprehensions that I notice are already on the record. I do not know whether you wish me to explain the bill, make a few comments on it, or give you some information with regard to equalization. I am in the hands of the committee as to what procedure I should adopt. Perhaps if I ran over the bill, I could be of some assistance.

Hon. Mr. HAIG: What did you do in the Commons Committee, Mr. Knowles? Were you examined by somebody there?

Mr. KNOWLES: I first made a statement, Senator Haig, on four or five of the matters that apparently had not been cleared up or commented upon by other witnesses, and then I was subjected to very severe cross-examination for two days by every member of the committee.

Hon. Mr. KINLEY: Would it not be wise for the witness to put on the record the reasons for the bill and what it is hoped the measure will accomplish.

The CHAIRMAN: Perhaps the witness might confine himself to those sections of the bill in which there is not unanimity. The real meat of the measure is sections 328 to 332B. I do not think we need hear the witness on the other more or less unimportant sections.

Hon. Mr. HAIG: He might very well answer Senator Kinley's question, as to the reason for the introduction of the bill; and when we get that we might also get the reason for the amendment excluding the Maritimes, and the reason for doing away with the triangle.

Mr. KNOWLES: I shall try to do that. The reasons for the bill are merely to comply with some of the recommendations of the Royal Commission. They reached the conclusion that there should be equalization of freight rates in Canada, so far as it could be done, and recommended a mandatory class rate scale for the whole of Canada, and a mandatory commodity rate scale also for Canada. So far as a lot of miscellaneous specific rates are concerned, they said should be equalized so far as possible.

Now, the bill does not go as far as the Royal Commission suggested. It makes it permissive for the Board to order a uniform mileage scale, and a uniform commodity mileage scale, in so far as it is possible to do so. I know that is a direction to the Board, but it is not mandatory, as the Royal Commission suggested.

Hon. Mr. CAMPBELL: How would you interpret section 329, if it is not mandatory. Section 329A reads:

> Class rate tariffs
>
> (*a*) shall specify class rates on a mileage basis for all distances covered by the company's railway, and such distances shall be expressed in blocks or groups and the blocks or groups shall include relatively greater distances for the longer than for the shorter hauls.

Mr. KNOWLES: That, I think, is simply what the tariff itself shall specify, after the Board of Transport Commissioners has arrived at what kind of rate scale they will have. It is governed, I think, by section 332A (1) which reads:

> It is hereby declared to be the national freight rates policy that, subject to the exceptions specified in subsection four, every railway company shall, so far as is reasonably possible, in respect of all freight traffic of the same description, and carried on or upon the like kind of

cars or conveyances, passing over all lines or routes of the company in Canada, charge tolls to all persons at the same rate, whether by weight, mileage or otherwise.

(2) The Board may, with a view to implementing the national freight rates policy, require any railway company.

(*a*) to establish a uniform scale of mileage class rates applicable on its system in Canada, such rates to be expressed in blocks or groups, the blocks or groups to include relatively greater distances for the longer than for the shorter hauls;

(*b*) to establish for each article or group of articles for which mileage commodity rates are specified..."

I would think that the tariff section is governed by the general policy section, Senator.

Hon. Mr. CAMPBELL: In other words, it is at least the intention of the legislation to leave that within the discretion of the Board, as to whether it shall require the tariff on a uniform mileage basis or otherwise.

Mr. KNOWLES: That is right.

Hon. Mr. CAMPBELL: But you would have no objection to the legislation being put in a definite form so that there is no doubt about it whatsoever.

Mr. KNOWLES: I am not suggesting, sir, the policy of the government in this matter.

Hon. Mr. CAMPBELL: But if that is the policy, should not the legislation express it in very definite and uncertain terms? You say you think it does?

Mr. KNOWLES: I think it leaves it optional to the Board, but I don't think they are going to flout the wishes of parliament as expressed in this section.

Hon. Mr. CAMPBELL: That is a point that is now causing trouble here. The section in that respect is not so definite that the Board would have to follow it, and require a uniform mileage scale?

Mr. KNOWLES: Well, the Royal Commission recommended a mandatory scale, and I assume that the Minister of Transport has good reasons for making it permissive, rather than mandatory; I don't know his reason for it.

Hon. Mr. REID: May I ask you, Mr. Knowles, if you have read most of the judgment of the Board of Transport Commissioners? The reason I ask you that, is to form a basis for my question. What would the effect on the Board be if we left out of that section the words "so far as is reasonably possible"? I have read the judgments of the Board of Transport Commissioners and I now ask you what would be the effect of the section on the Board if those words were omitted? Are they not just a loop-hole for the Board? I am for equalization, but I can see the Board beginning to quibble over those words, "so far as is reasonably possible".

Mr. KNOWLES: It may mean that so far as a lot of the miscellaneous rates are concerned, it may not be possible to equalize them. I think a lot of them can be equalized.

Hon. Mr. REID: But, suppose those words "so far as is reasonably possible" were deleted, what would the effect be? That sentence would then read:

...every railway company shall in respect of all freight traffic of the same description...

Mr. KNOWLES: It would make it mandatory to have a uniform scale throughout Canada, with the exception of the Maritimes. You would have to delete that part too, if you wanted a uniform rate all across Canada.

Hon. Mr. REID: You said the bill was founded on equality; yet we are now giving a directive to the Board and changing the Act. I think you are leaving a loop-hole.

Mr. KNOWLES: I am not leaving a loop-hole, Senator. The government has brought in this bill.

Hon. Mr. REID: Sorry, if I appear to blame you.

Mr. KNOWLES: The Royal Commission suggested that that scale be made mandatory; the government presumably has good reason for not making it entirely mandatory, and it may be they have in mind a lot of these miscellaneous rates that are hard to equalize.

Hon. Mr. KINLEY: These seems to be a difference of opinion here. Senator Campbell thinks the section is mandatory.

Mr. KNOWLES: Is mandatory?

Hon. Mr. KINLEY: I think that is what he said. He questioned you whether, as written, it was not mandatory.

Mr. KNOWLES: I do not think it is mandatory except to this extent: it is a general outline of the national freight rates policy.

Hon. Mr. HAYDEN: Do you think that if the word "shall" were put in, to remove all doubt and make it mandatory, as a practical thing, the policy could be implemented in accordance with 332A?

Mr. KNOWLES: What I would like to see done, if you are going to change that, is to use the exact wording of the royal commission.

Hon. Mr. HAYDEN: Well, whatever the wording is, let us assume that the provision is mandatory: then what I say is, do you think as a practical matter that the board could carry out such a direction?

Mr. KNOWLES: There might be a few rates that you could not equalize, but the bulk of them you could.

The CHAIRMAN: In other words, you say that you see some value in these words "so far as reasonably possible"?

Mr. KNOWLES: I do. I think it connects with subsection 2 (*c*). First of all, you have to establish a uniform class rate and a uniform commodity rate, and to revise "any other rates charged by the company". The commission suggested that we start with a class rate scale, then a commodity scale, and then, with regard to these miscellaneous rates we have, that we try to equalize them as far as possible.

Hon. Mr. CAMPBELL: In what respect does section 332A change the practice as laid down in 325?

Mr. KNOWLES: I think it simply implements 325, which requires that all rates shall be just and reasonable under similar circumstances and conditions. I think that is the wording of it.

The CHAIRMAN: You think it is just making it a little more emphatic, dotting the "i"s and crossing the "t"s?

Hon. Mr. HAYDEN: It is enunciating it as a matter of national freight rates policy; that is all.

Mr. KNOWLES: I think it just may have been that, and I think 332A is introduced for this reason, that the western provinces, especially, have said "We have tried and tried and tried under section 325 to get equalization of freight rates, and the board says we cannot do it." They wanted a mandatory provision to say there should be equalization of rates, and I must say that the board since 1912 has been proceeding in the direction of equalization. In the first place, they reduced the western rates by an average of about 10 per cent, in my estimate; they increased the eastern rates about the same time by about 5 per cent. In the 15 per cent case, they first gave the 15 per cent increase

in 1918 over the whole country; then, when the 25 per cent increase was allowed a few months later, they took off the 15 per cent in the west, so there was a compound 44 per cent increase in the east and 25 per cent in the west. In the so-called 40 per cent case in 1920 they only allowed 35 per cent in the West, and 40 per cent in the East. They have been proceeding a long way in the direction of equalization.

Hon. Mr. CAMPBELL: Is it not true they had power and authority under the act as it stood previously?

Mr. KNOWLES: There is a difference of opinion among lawyers as to whether they have authority to equalize rates all over Canada or not.

Hon. Mr. CAMPBELL: But you said that they have proceeded on that basis of equalization under the old act?

Mr. KNOWLES: That is right.

Hon. Mr. CAMPBELL: Now, does not this section change that practice, or rather alter the powers of the board in that respect?

Mr. KNOWLES: Well, it gives them, I think, a little more direction than they have had in the past to actually equalize.

Hon. Mr. CAMPBELL: And does it not take away the discretion they previously had as to whether they should equalize?

Mr. KNOWLES: Yes, I would think so. I would think under this bill they will not have much right to say that the class rates in the West shall be higher than in the East. The bill says they should be the same, if possible, except when you are meeting competitive conditions.

Hon. Mr. CAMPBELL: Would not this section prevent the board from maintaining the central arbitraries, in fact all the arbitraries, in fixing their rates?

Mr. KNOWLES: I think so, as to the central arbitraries.

Hon. Mr. CAMPBELL: So that in that respect it is a change?

Mr. KNOWLES: Well, they have the power today, I think, to wipe out the arbitraries if they want to. The arbitrary is simply a convenient way of making rates.

Hon. Mr. CAMPBELL: I realize that. What I am saying is that this legislation in effect would prevent the board from continuing the arbitraries?

Mr. KNOWLES: I would think so,—west of Levis, anyway, because the Maritimes are out as far as the bill is concerned.

Hon. Mr. REID: Is there any need for section 325 being retained, in the light of 328?

Mr. KNOWLES: Yes. Section 325 provides for the Crowsnest Pass rates, and I do not think you would want those taken out, would you, Senator?

Hon. Mr. REID: Nice to have it on the record!

Hon. Mr. CAMPBELL: If I may just ask one more question, with respect to the making of the new rates, in the event of this bill passing in its present form: if the board has no discretion left enabling them to continue the arbitraries, do you not think that is maybe a handicap in fixing the rate structure in this country in the future?

Mr. KNOWLES: I do not think it is any more handicap than it was in the United States, and they eliminated that method of making rates between the eastern United States and the western United States twenty years ago.

Hon. Mr. CAMPBELL: But they still use arbitraries in the States.

Mr. KNOWLES: They use arbitraries for what they call short and weak lines, and also for certain territories where they have to have a higher rate. But while you are correct now, you will not be correct four months from now, because the Interstate Commerce Commission has ordered a uniform rate scale

from Maine to the Rockies, to be made effective in four months' time. That order was made in July, and they have given a little extension so that the railways can get the tariffs out. But the maximum block is fifty miles, under that scale.

The CHAIRMAN: So it is clear that, if section 332A passes, this Fort William basing arbitrary will eventually disappear,—when the board eventually gets around to it?

Mr. KNOWLES: I think so. In fact I do not think there is any doubt about it. Before the royal commission one railway suggested that that big group be broken into three.

The CHAIRMAN: But, as I read the royal commission report, they do not recommend that the arbitraries be done away with.

Mr. KNOWLES: They do not deal specifically with the Fort William basing arbitraries, they deal with the Maritime arbitraries; and the only reason they suggested that the Maritime arbitraries be left as they were was because the Maritime Provinces asked that they be restored, by taking off all the increases subsequent to April 7, 1948, and that is all the royal commission was dealing with. As long as you are going to deal with a general increase in rates, they said that the arbitraries should take the increase the same as any other portion of the rate.

Hon. Mr. CAMPBELL: As I understood the report they suggested that the question of doing away with the arbritraries be left to the discretion of the Board, and in that respect, it seems to me that the legislation is not correct.

Mr. KNOWLES: You have to read the complaints about the arbitraries and what request was made by the Maritimes and the answers that the Royal Commission gave to it. I might say that one railway advocated the elimination of those arbitraries before the Royal Commission, and I would refer you to Mr. Jefferson's evidence before the Royal Commission at page 16548-9.

The CHAIRMAN: Who is Mr. Jefferson?

Mr. KNOWLES: He was the General Traffic Manager of the Canadian Pacific Railway, and he is now the Vice-President of that Company. If you read this record you would think he suggested that they be eliminated altogether and merged in the rate. What he really was talking about was the same thing I am talking about, that the railway rate stands as is from Saint John to Montreal, including the arbitrary and including the 21 per cent increase and not deduct the arbitrary from the Montreal rate and make no increase in it. This is the last question to Mr. Jefferson: "Q. There was nothing in it that convinced you that the arbitrary should be maintained?—A. No, sir". All he was discussing was the separation of the arbitrary from the rate so that the arbitrary would not be increased, as requested by the Maritime Provinces. All the Royal Commission suggested was that as long as the rates are made on arbitraries to and from the Maritimes, the whole rate should be increased.

Hon. Mr. HAIG: This bill does not do that.

Mr. KNOWLES: No, it goes much further than that. The Maritime Freight Rates Act as made effective July 1, 1927, froze their rates so that they could not be changed except for any general increase or in the case of a new mill starting up and requiring a maritime rate or something of that kind; but the Maritime Provinces contended that there could not be a change made in the maritime rates merely for the sake of equalization. They suggested an amendment to this bill that would throw this matter into the hands of the Board of Transport Commissioners for consideration which might result in a report four or five years from now as to whether a change is necessary in

the Maritime Freight Rates Act in order to accomplish equalization. As I understand it, the way the amendment was drafted and finally accepted sets the maritime rates, both eastbound and westbound, out of this bill entirely. I do not think there is anything wrong in that.

Hon. Mr. HAIG: Will the Commission report in five years that this should stand?

Mr. KNOWLES: They may suggest that it stand or they may suggest to the government that we can give some reductions to the Maritimes if they consent to some moderate increases too. I can visualize that on the Gaspe Coast where they pay nothing but standard mileage rates, they will not be content with the fact their rates will be set aside from equalization. They will be coming along and asking for equalization in a year or two. That is what I anticipate.

Hon. Mr. HAIG: Yes, but this bill, in view of that amendment, does not apply to the Maritime Provinces at all?

Mr. KNOWLES: No, sir, as I understand it; but that is subject to legal interpretation.

Hon. Mr. HAIG: What about goods that originate in the Maritime Provinces and are shipped to Regina? Will the old rate stand on these goods right through?

Mr. KNOWLES: Yes, the present rates will stand, as I understand it.

The CHAIRMAN: Including the Fort William arbitrary?

Mr. KNOWLES: I just said, Mr. Chairman, that it is subject to legal interpretation.

Hon. Mr. HAWKINS: That will be subject to any general increase?

Mr. KNOWLES: Yes. If however it is necessary for the purposes of equalization to reduce the rates in Western Canada, and advance them as far east as Levis in Eastern Canada, as I understand it,—subject to legal interpretation—the Maritime Freight Rates Act and Bill 12 provide that you cannot change those rates at all and that you must leave them alone.

Hon. Mr. HAIG: Let us assume that a line of goods is shipped from Montreal to Regina. Under this Act the rates are increased to be equalized and all these arbitraries are taken out. Is that what will happen?

Mr. KNOWLES: I do not visualize such increases at all. The rates between the east and the west are so much higher than they are within the west or within the east that they are going to come down anyway. There will be nothing but reductions between the east and the west in my opinion.

Hon. Mr. HAIG: But you do not answer my question. Can I as a manufacturer in Halifax get the same rate I get now to Regina on a bill of goods under this Act?

Mr. KNOWLES: What the lawyers tell me is that there will be no change in those rates.

Hon. Mr. HAIG: That is an advantage to the Maritimes as far as the west is concerned. They have an interest under the old rates. If the same bill of goods goes from Montreal to Regina it is subject to the equalization, and the rates will probably be increased under the Act.

Mr. KNOWLES: As far as I know they will be reduced. The Maritimes have just stultified themselves by putting themselves out of the reach of getting that reduction.

Hon. Mr. HAIG: I am not an optimist. I do not think there will be any reduction in the rates any place.

Mr. KNOWLES: You do not think so?

Hon. Mr. HAIG: Except under arbitrary action, but not under judgment of the Board of Transport Commissioners or anybody else who may have taken their place. You see, you are not answering my question.

Mr. KNOWLES: I will try to.

Hon. Mr. HAIG: I want to know if under this legislation I can ship a bill of goods from Halifax to Montreal and from Halifax to Regina and get the present rate. I presume I would have to pay an equalized rate which would give me a rate higher than I have to pay now.

Mr. KNOWLES: It may be higher or lower.

Hon. Mr. HAIG: It could not be lower because it is the eastern rate you are trying to raise.

Hon. Mr. KINLEY: What are the conditions that make the Gaspe Coast pay all standard rates?

Mr. KNOWLES: Well, they always had standard class rates.

Hon. Mr. KINLEY: Take dried fish, for instance.

Mr. KNOWLES: You are talking about commodity rates.

Hon. Mr. KINLEY: What about goods that are not on the commodity rate?

Mr. KNOWLES: They are in the general classification. They pay standard rates. There are points in the Maritimes that have always paid standard rates, but some points have distributing rates which are lower. In my opinion, after we get equalization west of Levis they will want it east of Levis, and I am perfectly happy that they should be left as at present because the section suspends for the time being a lot of complications in making rates to and from the Maritimes.

Hon. Mr. CAMPBELL: Mr. Knowles, why would it not be better to provide that the arbitrary existing in the Maritimes be continued, and that any goods hauled west of the Maritimes should bear the same rate as existing in the central provinces and in the West?

Mr. KNOWLES: By maintaining the arbitrary you mean over any rate to or from Montreal?

Hon. Mr. CAMPBELL: Yes.

Mr. KNOWLES: Well, the rate to and from the Maritimes would then change with the Montreal rate. But in the Maritime provinces they say: "We do not want that. Just leave us alone."

Hon. Mr. CAMPBELL: You say the intention of this legislation is to have a separate rate across Canada on freight originating within the Maritimes?

Mr. KNOWLES: Yes, to leave the present rates alone.

Hon. Mr. CAMPBELL: Would that not completely destroy the policy of equalization as enunciated in the bill?

Mr. KNOWLES: It would, as far as the Maritimes are concerned.

Hon. Mr. CAMPBELL: And it might have a very serious effect upon certain shippers in the central provinces, particularly those from Quebec and Montreal?

Mr. KNOWLES: If you are talking of rates between the East and the West, no, sir, because the rates between the East and the West are already on a higher basis than the rates anywhere else in Canada.

Hon. Mr. CAMPBELL: But they would not be, after the rates were increased in the central provinces, as they surely would be under this legislation?

Mr. KNOWLES: Well, I do not know as to that.

Hon. Mr. KINLEY: Does not the advantage to the Maritimes disappear beyond Levis?

Mr. KNOWLES: It does at present, senator. There is a 20 per cent reduction for the portion of the haul east of Levis.

Hon. Mr. HAWKINS: I am afraid that a misunderstanding is being created here. This bill does not set rates, it is only an authority for equalizing them.

Mr. KNOWLES: Yes.

Hon. Mr. HAWKINS: There is nothing in this that would save us from having to pay a higher rate on shipments from Halifax to Regina if the rate was made higher by the Board.

Mr. KNOWLES: I think you are wrong on that, sir. The way it has been explained to me by the legal gentlemen is that this leaves you exactly where you are today.

The CHAIRMAN: Perhaps we could get Mr. Matthews' view on that.

Mr. MATTHEWS: Mr. Chairman, there seems to be a little difference of opinion about this among lawyers.

Hon. Mr. HAIG: Will you just read the section that you are referring to?

The CHAIRMAN: It is paragraph (*f*) of subsection (4) of section 332A, on page 6 of the bill.

Mr. MATTHEWS: That reads:

> rates applicable to movements of freight traffic upon or over all or any of the lines of railway collectively designated as the 'Eastern lines' in the Maritime Freight Rates Act as amended by the Statute Law Amendment (Newfoundland) Act.

The original bill was drafted without that paragraph, and the equalization section was made subject to the Maritime Freight Rates Act. My interpretation of the Maritime Freight Rates Act was that the rates were frozen on July 1, 1927, and could only be increased or decreased as the cost of operations increased or decreased, and we thought that if the bill was made subject to the Maritime Freight Rates Act the position of the Maritimes would be protected. Now, under the Maritime Freight Rates Act the rate is fixed only on the eastern lines, that is east of Levis. But the representatives of the Maritimes thought they did not have sufficient protection, and that their traffic should be excluded from the equalization sections of the bill. The point may have to be settled in the courts some time. My interpretation would be that on movements from Halifax to Regina the rate to Levis is settled and would not be touched, but that beyond that the regular rate would apply.

Hon. Mr. CAMPBELL: If you changed the language to read "within the Maritimes"—

Mr. MATTHEWS: That then would apply only to local traffic within the Maritimes.

Hon. Mr. CAMPBELL: But it could be spelled out to cover traffic moving west, outside of the Maritimes. Surely we can draft legislation that will express what we have in mind.

Mr. MATTHEWS: Well, that is my interpretation. The point is not clear.

Hon. Mr. HAYDEN: Why should we have to depend on interpretation? If there is likely to be a conflict as to the meaning, why should we not decide what we want and then spell it out?

Mr. MATTHEWS: I think if that were to be done it might be wise to recall the representatives of the Maritimes.

Hon. Mr. HAYDEN: We do not object to that.

Hon. Mr. KINLEY: Perhaps we are discussing a more or less academic point. There is not much movement of freight between the Maritimes and the West, is there?

Mr. MATTHEWS: I think that some stoves are shipped from Amherst to the west.

Hon. Mr. HAIG: I agree with Senator Hayden. As I understand it, we want to preserve the Maritime rates on shipments up to Levis.

Hon. Mr. BAIRD: I think we should try to do better than that. In Newfoundland we have the prospect of a great development and we hope to be able to ship goods to British Columbia.

Hon. Mr. HAIG: Why should Newfoundland or any other eastern province want special rates on its products that it desires to sell in the west?

Hon. Mr. BAIRD: Why should the West be given special rates?

Hon. Mr. HAIG: We are not asking for special rates. We want equalization.

Hon. Mr. HAWKINS: But you will not be given strict equalization, for you have statutory rates that are frozen.

Hon. Mr. HAIG: But they apply only within our own territory, and we are not asking that their application be extended. As I see it, you are asking to have these special rates apply right through to Regina. As Mr. Matthews says, the courts may have to decide the point. Why cannot Mr. Smith and Mr. Matthews and our own Parliamentary Counsel, Mr. MacNeill, get together and draft this particular part of the bill as we want it?

Hon. Mr. REID: We should try to put it in plain language so as to avoid litigation. Millions of dollars have been spent in this country on interpretation of statutes.

Hon. Mr. HAIG: Underwear, for instance, is manufactured at Truro, Nova Scotia—and it is first-class underwear. Now, why should the manufacturer down there be given a special rate over the manufacturer in, say, Ingersoll, Ontario? I do not think it should. I am agreeable to having the Maritime rates up to Levis preserved, but if Maritimes manufacturers are given a special rate on shipments west of that they will be getting something they have not now.

Hon. Mr. KINLEY: I think that the Ingersoll manufacturer can still put his underwear in the west cheaper than the Truro manufacturer can. The Ingersoll manufacturer is in a preferred position, because the man from the Maritimes has got the disadvantage of the long rail haul. The idea is to give the Maritimes man a chance to get his products into the market.

Hon. Mr. HAIG: We are agreeable to that, but why should Maritimes manufacturers be given a lower rate than other manufacturers on shipments from Montreal to Regina?

Hon. Mr. KINLEY: I think Sir Andrew Duncan, when he was head of the Commission, made that very plain. The idea was to allow what manufacturers there were in the Maritimes—and there weren't many—to get into the markets of Central Canada. You do not get into them until you get to Levis.

Hon. Mr. QUINN: And to take care of that 100 odd miles to the United States border.

Mr. MATTHEWS: However, Mr. Knowles seems to think that an equalized scale would not be higher than it is now.

Hon. Mr. KINLEY: One needs to read the report of the Commission, to know what is behind the Maritime Freight Rates Act.

The CHAIRMAN: The trouble is that not one of us seems to know precisely what is the effect of paragraph (*f*).

Hon. Mr. HAYDEN: That is so.

The CHAIRMAN: Mr. Knowles takes one position, and Mr. Matthews takes another; it might be that our parliamentary Counsel and Mr. Smith would have still another view.

Hon. Mr. KINLEY: What do we want to accomplish?

The CHAIRMAN: I do not know that we can do much by discussing the question at this juncture. Would the committee like our parliamentary Counsel, Mr. Matthews and Mr. Smith, if he is available to get together and try and give us in plain language what their interpretation of this section is?

Hon. Mr. HAYDEN: Why not put it the other way? What does the section seek to accomplish, and then say it in plain language?

Hon. Mr. HAIG: Mr. Smith is a good man. I was very much impressed with him, and he knows what the Maritimes want.

Hon. Mr. KINLEY: We had hoped that we would get it all the way through.

Hon. Mr. HAYDEN: If that is the case, then we are going to have some discussion.

Hon. Mr. REID: We certainly are.

Hon. Mr. CAMPBELL: Mr. Matthews, what was the intention of this section?

Mr. MATTHEWS: I thought, from the amendment, that the intention was to seal off the Maritimes.

Hon. Mr. BAIRD: It certainly seals them off.

Mr. MATTHEWS: Yes; gives them what they want and preserves their historic position.

Hon. Mr. KINLEY: What have they got now?

Mr. MATTHEWS: A fixed rate and a 20 per cent reduction on west-bound and local traffic.

Hon. Mr. KINLEY: Going back to this instance you cited, would they get that rate through to Regina, as suggested by Mr. Knowles?

Mr. MATTHEWS: What rate was that?

Hon. Mr. KINLEY: He suggested that they carry it through to Regina at the Maritimes rate, although it was lower than Montreal to Regina.

Mr. KNOWLES: I did not say that. I said whatever changes are made in the Montreal rate will not be reflected in the rate from Halifax.

Hon. Mr. KINLEY: Whatever it is now, there it stays.

Mr. KNOWLES: That is right.

Hon. Mr. KINLEY: And you contend that that agreement affecting the Maritimes carries throughout the rest of Canada?

Mr. KNOWLES: Yes.

The CHAIRMAN: In other words, Mr. Knowles, do you suggest that this subsection eliminates the possibility of the Maritimes getting any benefit from the $7 million subvention?

Mr. KNOWLES: Well, that is another question.

The CHAIRMAN: If the rates are completely frozen, regardless of the charges elsewhere, is that not going to be the effect?

Mr. KNOWLES: It might be argued that they are not entitled to any part of this $7 million after being sealed off by this section; but they think they are entitled to it and want part of the $7 million, but they don't want any other changes.

Hon. Mr. HAIG: Mr. Chairman, may I suggest that Mr. Smith, Mr. Matthews and our Counsel here understand what we want, and—

The CHAIRMAN: Might I suggest that we include with those gentlemen Mr. Evans of the C.P.R., and any others who are interested?

Hon. Mr. HAIG: I am quite agreeable.

Hon. Mr. KINLEY: What would happen if the rate between Montreal and Regina were lowered?

Mr. KNOWLES: If we increased them, the Maritimes will say their rates are frozen and can't be changed; if they are reduced, they will say they want to get some consideration.

Hon. Mr. KINLEY: You can't have it both ways.

Mr. KNOWLES: That is what I think.

Hon. Mr. REID: I am warning you to watch this bill.

The CHAIRMAN: This is just an indication of how difficult it is to frame legislation of this kind. May I take it that the committee does not wish to discuss the bill further at the moment, but that we request our parliamentary Counsel to get together with Mr. Matthews, Mr. Evans, and if necessary Counsel for the C.N.R., and to advise us of what they think is the effect of this section?

Hon. Mr. HAIG: And if it does not do what they think it should do, draft a section that we can understand.

Hon. Mr. HAYDEN: I think it must be agreed now that this section is capable of a number of interpretations. If that is the case, we do not want the section. We want to know, first, what is it that the government intends as a matter of policy by this section, then let us put it in plain language.

Hon. Mr. REID: Hear, hear.

The CHAIRMAN: I see Mr. Benidickson taking notes. Perhaps he can make some suggestions.

Mr. BENIDICKSON: No, Mr. Chairman, I am taking notes for the Minister so that I can tell him the results of the discussion here; he will be able to answer questions as to government intention when he appears before the committee as a witness. That is my only purpose in being here.

Hon. Mr. HAIG: But we have to get some action tonight; at least it has to be started tonight. If we do not do so, this measure is going to be tied up for some time.

Hon. Mr. REID: You do not need to be so anxious.

Hon. Mr. HAIG: I am one of those who believes that the legislation should go through.

Hon. Mr. HAYDEN: As long as we know what it means.

The CHAIRMAN: I take it to be the wish of the committee that we have our Parliamentary Counsel meet with these other gentlemen and that they give us as clear a statement as they can of what this section means.

Hon. Mr. HAIG: I think we should now adjourn.

The CHAIRMAN: Mr. Knowles will have to come before the committee again about the various sections of the bill.

Mr. KNOWLES: I will be available at any time.

The CHAIRMAN: Thank you. Then we will meet again on Tuesday morning at half past ten.

The committee adjourned.

1951

THE SENATE OF CANADA

PROCEEDINGS

OF THE

STANDING COMMITTEE

ON

Transport and Communications

On the Report of the Royal Commission on Transportation,
And the Bills Implementing the said Report.

No. 7

TUESDAY, DECEMBER 11, 1951

WEDNESDAY, DECEMBER 12, 1951

The Honourable Adrian K. Hugessen, Chairman

INCLUDING REPORT TO COMMITTEE

WITNESSES

Honourable Lionel Chevrier, P.C., Minister of Transport;
Mr. W. J. Matthews, Director, Administration and Legal Services, Department of Transport;
Mr. F. D. Smith, K.C., Counsel, The Maritime Transportation Commission, and the Maritime provinces;
Mr. Hugh E. O'Donnell, K.C., Counsel, Canadian National Railways;
Mr. L. J. Knowles, Special Adviser to the Minister of Transport;
Mr. F. C. S. Evans, K.C., Vice-President and General Counsel, Canadian Pacific Railway Company.

OTTAWA
EDMOND CLOUTIER, C.M.G., O.A., D.S.P.
PRINTER TO THE KING'S MOST EXCELLENT MAJESTY
CONTROLLER OF STATIONERY
1951

STANDING COMMITTEE
ON
TRANSPORT AND COMMUNICATIONS

The Honourable ADRIAN K. HUGESSEN, *Chairman*

The Honourable Senators:

Aseltine	Horner
Baird	Hugessen
Campbell	Kinley
Davis	McLean
Dessureault	Nicol
Gershaw	Paterson
Grant	Raymond
*Haig	*Robertson
Hawkins	Reid
Hayden	

*Ex officio member.

ORDER OF REFERENCE

EXTRACT from the *Minutes of the Proceedings* of the Senate, Friday, 19th October, 1951.

Ordered, That the Standing Committee on Transport and Communications be authorized to examine and report upon the Report of the Royal Commission on Transportation and especially upon the proposal to equalize freight rates and the effect of such proposal on specific areas of Canada.

That the said Committee be empowered to send for persons, papers and records.

That the Committee be authorized to sit during adjournments of the Senate.

Attest.

L. C. MOYER,
Clerk of the Senate.

97193—1½

MINUTES OF PROCEEDINGS

TUESDAY, December 11, 1951.

Pursuant to adjournment and notice the Standing Committee on Transport and Communications met this day at 10.30 a.m.

Present: The Honourable Senators:— Hugessen, Chairman; Aseltine, Baird, Davis, Haig, Hawkins, Hayden, Kinley, Nicol and Reid—10.

In Attendance: Mr. J. F. MacNeill, K.C., Law Clerk and Parliamentary Counsel, and the official Reporters of the Senate.

Mr. W. Benidickson, M.P., Parliamentary Assistant to the Minister of Transport, was present.

The Committee resumed consideration of Bill 12, An Act to amend the Railway Act.

The Honourable Senator Hugessen, Chairman, advised the Committee that a letter had been received from Mr. H. A. Mann, General Secretary, The Canadian Industrial Traffic League, advising the Clerk of the Committee that he was forwarding 30 copies of a brief that his organization had submitted to the Special Committee of the House of Commons on Railway Legislation. The Chairman informed the Committee that the said brief had not as yet been received and the Clerk was instructed to forward the brief to the Members of the Committee if and when it was received.

The following Counsel were heard with respect to their interpretation of Paragraph 332A. (*f*) of the Bill:—

Mr. J. F. MacNeill, Law Clerk and Parliamentary Counsel, the Senate.

Mr. W. J. Matthews, Director, Administration and Legal Services, Department of Transport.

Mr. F. D. Smith, K.C., Counsel, The Maritime Transportation Commission, and the Maritime provinces.

Mr. F. C. S. Evans, K.C., Vice-President and General Counsel, Canadian Pacific Railways.

Mr. Hugh O'Donnell, K.C., Counsel, Canadian National Railways.

Mr. L. J. Knowles, Special Adviser to the Minister of Transport, was further heard in explanation of the Bill.

Mr. Hugh E. O'Donnell, K.C., was recalled and presented the views of the Canadian National Railways with respect to the Bill.

At 1.00 p.m. the Committee adjourned to the call of the Chairman.

Attest.

JAMES D. MACDONALD,
Clerk of the Committee.

WEDNESDAY, December 12, 1951.

Pursuant to adjournment and notice the Standing Committee on Transport and Communications met this day at 10:30 a.m.

Present: The Honourable Senators: Hugessen, Chairman; Baird, Campbell, Davis, Dessureault, Grant, Haig, Hawkins, Hayden, Kinley, McLean, Nicol, Robertson and Reid.—14.

In attendance: Mr. J. F. MacNeill, K.C., Law Clerk and Parliamentary Counsel, and the official Reporters of the Senate.

Mr. W. Benidickson, M.P., Parliamentary Assistant to the Minister of Transport, was present.

The Committee resumed consideration of Bill 12, An Act to amend the Railway Act.

The Honourable Lionel Chevrier, P.C., Minister of Transport, was heard in explanation of the Bill, with particular reference to section 332 (*a*) subsection 4 (*f*).

The official reporters of the Senate withdrew.

The Committee proceeded to the consideration of the Bill, clause by clause.

The Honourable Senator Hayden moved that the Bill be amended as follows:—

Page 4, line 23: after "distances" delete "shall" and substitute "may".
Page 4, line 24: after "groups" delete "shall" and substitute "may".

The question being put on the Motion the Committee divided as follows: YEAS: 4. NAYS: 7.

The Motion was declared passed in the negative.

The Honourable Senator Haig moved that the Bill be amended as follows:—

Page 4, lines 26 to 29: delete paragraph (*b*) and substitute the following: "(*b*) may, in addition, specify class rates between specified points on the railway and when rates are established in groups the rates to or from individual points in the groups may be higher or lower than the rates specified under paragraph (*a*)."

The question being put on the Motion, it was declared carried in the affirmative.

The Honourable Senator Hayden moved that the Bill be further amended as follows:—

Page 5, line 22: after "competition" delete "actually".

The question being put on the Motion, it was declared carried in the affirmative.

The Honourable Senator Hayden moved that consideration of section 332 (*a*) subsection 4. (*f*) be deferred.

The question being put on the Motion the Committee divided as follows: YEAS: 6. NAYS: 7.

The Motion was declared passed in the negative.

The Honourable Senator Hayden moved that the Bill be further amended as follows:—

Page 7, line 35: after "territory;" insert "unless the Board for good cause otherwise orders;"

Page 7, line 49: after "territory" insert "; unless the Board for good cause otherwise orders".

The question being put on the Motion the Committee divided as follows: YEAS: 6. NAYS: 4.

The Motion was declared carried in the affirmative.

The Honourable Senator Haig moved that the Bill be further amended as follows:—

Page 8, line 36: after "Act" insert "except section three hundred and thirty-two A,"

The question being put the Motion was declared carried in the affirmative.

It was RESOLVED to report the Bill with the following amendments:—

1. *Page 4, lines 26 to 29:* delete paragraph (*b*) and substitute the following: "(*b*) may, in addition specify class rates between specified points on the railway and when rates are established in groups the rates to or from individual points in the groups may be higher or lower than the rates specified under paragraph (*a*)."
2. *Page 5, line 22:* after "competition" delete "actually".
3. *Page 7, line 35:* after "territory;" insert "unless the Board for good cause otherwise orders;".
4. *Page 7, line 49:* after "territory" insert "; unless the Board for good cause otherwise orders".
5. *Page 8, line 36:* after "Act" insert "except section three hundred and thirty-two A,".

At 1:00 P.M. the Committee adjourned to the call of the Chairman.

Attest.

JAMES D. MacDONALD,
Clerk of the Committee.

REPORT OF COMMITTEE

WEDNESDAY, December 12, 1951.

The Standing Committee on Transport and Communications to whom was referred the Bill (12 from the House of Commons), intituled: "An Act to amend the Railway Act," have in obedience to the order of reference of December 5, 1951, examined the said Bill and now beg leave to report the same with the following amendments:—

1. *Page 4, lines 26 to 29:* delete paragraph (*b*) and substitute the following: "(*b*) may, in addition, specify class rates between specified points on the railway and when rates are established in groups the rates to or from individual points in the groups may be higher or lower than the rates specified under paragraph (*a*)".

2. *Page 5, line 22:* after "competition" delete "actually".

3. *Page 7, line 35:* after "territory;" insert "unless the Board for good cause otherwise orders;".

4. *Page 7, line 49:* after "territory" insert "; unless the Board for good cause otherwise orders".

5. *Page 8, line 36:* after "Act" insert "except section three hundred and thirty-two A,".

All which is respectfully submitted.

A. K. HUGESSEN,
Chairman.

MINUTES OF EVIDENCE

The Senate

OTTAWA, WEDNESDAY, December 12, 1951.

The Standing Committee on Transport and Communications, which was authorized to examine the Report of the Royal Commission on Transportion, met this day at 10.30 a.m.

Hon. Mr. HUGESSEN in the Chair.

The CHAIRMAN: Gentlemen, the committee will come to order. We have a quorum. The committee will remember that yesterday we left the matter of the Maritime freight rates provision in section 332(*a*) of the bill until the Minister could be here this morning to give us his views, first of all, as to what is intended to be accomplished with reference to the Maritime freight rates, and secondly, whether he feels that the section as it is now in the bill—subsection (*f*) at the bottom of page 6—properly accomplishes that object, or whether he thinks that a suggested amendment which was submitted at our meeting yesterday would better accomplish that object. Perhaps the Minister would be good enough to give us his views on this.

The Honourable Lionel CHEVRIER: Mr. Chairman and honourable senators, I should like immediately to apologize for my apparent difficulty in getting over here. I have been tied up with some legislation in the House, and that accounts for the delay in coming as quickly as otherwise I would have wanted to. I have listened to what the Chairman of your committee has said, and I think I might summarize the position and my understanding of that section as briefly as I can. It was the intention of the government all along that the position of the Maritime Provinces should be protected in so far as the 20 per cent preference was concerned under the Maritime Freight Rates Act. That was made quite clear in the reference not only to the Royal Commission on Transportation but also in the terms of reference under P.C. 1487. There never was, I think, any difficulty about that, but when the bill as originally framed was drafted and placed before the members of the House of Commons there then arose some doubt and some fear that that position in so far as the Maritime Freight Rates Act was concerned was not preserved. For that reason we listened to the representations made by counsel representing the four Maritime Provinces, and the Chairman, I believe, of the Maritime Transportation Commission. They indicated that while that position was in fact preserved, they felt that it would be better preserved by the addition of these words. The addition of these words involved some difficulty because counsel for other provinces, in fact, counsel for all the western provinces were present and had made representations and had indicated that the bill as originally framed met the position of the Maritime Provinces. However, on being asked by myself and by other counsel if they saw any objection to this amendment as it was framed, they indicated clearly that they did not see any objection as it was framed and indicated also that they did not think it would affect equalization in so far as they were concerned. Counsel for the other provinces looked at this amendment very carefully. My understanding of the amendment is that it not only preserves the position of the select territory but it also preserves the rate groupings and the arbitraries as far west as Montreal. In other words, from Montreal east there can be no equalization.

The CHAIRMAN: There need not be.

Hon. Mr. CHEVRIER: Thank you for the correction, there need not be any equalization. But from Montreal west the Board of Transport Commissioners in their equalization plans would have to take into consideration the effect of Section 332 (*a*). That is my understanding of the amendment. That understanding was reached after counsel for the Maritime Provinces and counsel for the other provinces had looked at the amendment and felt that it preserved and did no more than preserve the position of the Maritime Provinces; and in view of that I would not personally—I speak for myself—like to see the section touched.

Hon. Mr. CRERAR: Does this principle the Minister has just stated apply to freight moving inward to the area east of Montreal as well as to the freight moving outward?

Hon. Mr. CHEVRIER: It does not disturb the present position of the Maritime Freight Rates Act, which applies to freight moving out of and within the select area.

Hon. Mr. CRERAR: The Maritime Freight Rates Act, as I have understood it—perhaps mistakingly—applies to the territory east of Levis and not east of Montreal.

Hon. Mr. CHEVRIER: That is right.

Hon. Mr. CRERAR: And does this enlarge the area?

Hon. Mr. CHEVRIER: Yes, it does. It does not enlarge the area in so far as the preference is concerned, but it does enlarge the area in so far as the arbitraries and the rate groupings are concerned.

Hon. Mr. CRERAR: Could I have an explanation as to why the area was enlarged?

Hon. Mr. CHEVRIER: I do not know that I can explain it other than this. It was felt by the representatives of the provinces from the Maritime area that their preferred position would not be protected unless this was done. In other words, their 20 per cent preference would be affected if the arbitraries and rate groupings to Montreal were not protected in some fashion, and this was the method devised to so protect.

Hon. Mr. CRERAR: Well, then, the broad principle underlying the equalization of rates—and I think this is a bit of a misnomer because I do not feel that the Archangel Gabriel himself could equalize rates in Canada—cannot apply so far as the rates outgoing from there west to Montreal are concerned.

Hon. Mr. CHEVRIER: That is as I understand it, yes.

Hon. Mr. HAYDEN: Mr. Minister, you have given an explanation this morning as to what the intention was with respect to subsection (*f*), and also that you would not like to see it touched. Well, we have had opinions—I do not know whether you have been advised of them or not—almost as many opinions as we have had experts expressing views as to what this section means. One meaning it appears to bear in their minds is that it does and could be said to operate beyond or west of Montreal. Now, that was not the intention of the government, was it?

Hon. Mr. CHEVRIER: No, that was not the government's intention.

Hon. Mr. HAYDEN: So if this subsection (*f*) is capable of such interpretation, then that should be clarified, should it not?

Hon. Mr. CHEVRIER: Well, I suppose it should but does that not raise the question again that of certain sections of statutes there can be many interpretations? I understand that there are opinions to support the honourable senator's position.

Hon. Mr. HAYDEN: It is not my position. I am putting the question because of the interpretation that has been given.

Hon. Mr. CHEVRIER: Then let me put it this way. I understand that there are opinions given to support the position which has just been expressed by the honourable senator.

Hon. Mr. HAYDEN: Yes.

Hon. Mr. CHEVRIER: But, on the other hand, there must be an end to interpretations that you can put upon a section. After all, it was the provinces who sought this legislation and they were represented by counsel both before cabinet, when they made their representations for a Royal Commission, and again before the Royal Commission. Their counsel also appeared before the committee of the other house and they agreed that this was the method in which that position could be met.

Now may I go a step further and say that I am not attempting to interpret that section. I am not a statute lawyer nor am I an expert draftsman—far from it. The point I wish to make, Senator Hayden, is that that section was pretty carefully looked into by counsel for all the provinces. Of course, I am in the hands of this committee, and if the committee desires to amend it, that is for it to say, but I think that if it were amended it might bring additional representations from counsel in other provinces who felt that the section as it is now, would meet the position of the Maritime provinces and not interfere with equalizations as they understood it.

Hon. Mr. HAYDEN: Then let me put this to you, Mr. Minister. The suggested interpretation would make the section capable of a broader interpretation than you say was the intention or the policy of the government when it brought in that subsection or paragraph?

Hon. Mr. CHEVRIER: It would not make it broader in so far as the 20 per cent—

Hon. Mr. HAYDEN: You have misunderstood me. I say the suggested interpretation that we have had presented here by various witnesses would give a broader interpretation to the section than the interpretation that you put on it. You have interpreted it as intended to preserve rate groupings and arbitraries and carry as far west as Montreal.

Hon. Mr. CHEVRIER: Yes.

Hon. Mr. HAYDEN: The interpretation given here by a number of lawyers who are skilled in this kind of work, and one of the views expressed by our own Law Clerk, is that it is capable of the broader interpretation that the movement of goods out of the Maritimes might carry all the benefits that exist to any point in Western Canada. Now, that was not intended?

Hon. Mr. CHEVRIER: That is right. I do not think that I should get into a discussion of what it means, other than to say what it was intended to mean.

Hon. Mr. HAYDEN: Once we know what you intended it to mean, if we express your intention and that involves some slight change you cannot complain of that?

Hon. Mr. CHEVRIER: I am in the hands of the committee in that respect.

Hon. Mr. STAMBAUGH: There has been some opposition to the one-and-one-third rate within Alberta and I would like to get your opinion on that.

Hon. Mr. CHEVRIER: What is the opposition, Senator Stambaugh?

Hon. Mr. STAMBAUGH: It is felt that it should not be there in the way that it is.

Hon. Mr. CHEVRIER: Well, all I can say is that it was given very careful consideration by the Royal Commission, by the committee that drafted the bill and by the House of Commons, and my feeling certainly is that it should remain as it is.

Hon. Mr. STAMBAUGH: One of the objections is based on the fear that transcontinental rates might be cut out if this rate went into effect.

Hon. Mr. CHEVRIER: My answer to that—and I dealt with it very fully in the House—is that, first of all, the Canadian National Railways have indicated that they would not be disposed to withdraw any of the transcontinental rates. Then again, in so far as the Pacific Coast is concerned, there are two forms of transportation, that is by water and by rail. If the transcontinental rates were withdrawn the railways would have to face water competition, as well as railway competition at the back door of British Columbia by the Great Northern Railway. But supposing the worst came to the worst, which I do not think will ever happen, then on a small number of items going to the West Coast you would have a commodity rate which would be somewhat higher than the present transcontinental rate.

Hon. Mr. STAMBAUGH: But if the Canadian National did not withdraw its transcontinental rate, the Canadian Pacific could not withdraw its, either?

Hon. Mr. CHEVRIER: That is my opinion.

Hon. Mr. REID: I think British Columbia's only objection to the bill was based on the fear that the transcontinental rates would be discontinued.

Hon. Mr. CHEVRIER: But I believe that fear was somewhat minimized before we finished with the bill in the House. During the discussions in the committee and again to some extent in the House the fears, I think—I say this respectfully—were exaggerated, but when we came to discuss section 332B the fears crystalized themselves into what might be the effect on about five or six articles at most, so far as the Coast is concerned. But as against that there is no doubt that the whole interior of British Columbia—the Kootenays, the north and north-east parts of the province—would benefit from the one-and-one-third rule. Of course, the population in these parts is not as large as it is in the coastal cities.

Hon. Mr. REID: Even though the transcontinental rate applies to only a small area, from Vancouver to Mission, is it your opinion that the one-and-one-third rule would benefit the interior greatly?

Hon. Mr. CHEVRIER: Unquestionably the eastern part of the province would get the benefit of the one-and-one-third rule. Where the dividing line would come in the province I could not say. I should think that an area up to 100 miles from the Coast benefits from the transcontinental rate. That area would get no benefit from the one-and-one-third rule.

Hon. Mr. REID: The dividing line would be probably 45 miles from Vancouver, and the Okanagan valley would not benefit.

Hon. Mr. CHEVRIER: Of course, Senator Reid, the Okanagan would not be affected, because no perishable goods move on the transcontinental rate.

Hon. Mr. CRERAR: Take a carload of refrigerators shipped from Hamilton to Revelstoke. Would that carry a rate of 1⅓ times the carload rate from Hamilton to Vancouver?

The CHAIRMAN: That question is based on the assumption that refrigerators are included in the articles to which transcontinental rates apply.

Hon. Mr. CHEVRIER: Transcontinental rates apply only to goods that do not require any urgency of movement. For instance, there is no urgency about the movement of canned goods. They could be shipped by water, and in order to meet water competition the railways apply the transcontinental rate to them.

Hon. Mr. CRERAR: Then, take a carload of canned goods shipped from Hamilton to Revelstoke. Would that shipment enjoy a rate not in excess of one-and-one-third times the rate to Vancouver?

Hon. Mr. CHEVRIER: I will have to ask our traffic expert about that.

Mr. L. J. KNOWLES: That is correct, sir.

The CHAIRMAN: Is it not also correct that by reason of the present competitive transcontinental rate to Vancouver plus the regular rate from Vancouver back to Revelstoke, Revelstoke already enjoys a preference over the class rate from the east? Indeed, we were told in the committee here that places as far back even as Calgary and Edmonton do benefit to some extent from the transcontinental rates, through the addition to those rates of the regular rates back.

Hon. Mr. CHEVRIER: That is so.

The CHAIRMAN: Then how is the interior of British Columbia going to benefit from this?

Hon. Mr. CHEVRIER: All I can say is that, according to the advice I have, the whole eastern part of British Columbia and the Dawson Creek area and the Peace River district will benefit from this rule.

Hon. Mr. ROBERTSON: I suppose it would depend on the rate back from Vancouver.

Hon. Mr. STAMBAUGH: You say that the one-and-one-third rate would be less than what the rate is now on goods shipped to Vancouver and back?

The CHAIRMAN: Not in all cases.

Hon. Mr. STAMBAUGH: Yes, I think it would be.

The CHAIRMAN: Not in all cases, by any means.

Hon. Mr. STAMBAUGH: No, but over an area of possibly 100 miles from Vancouver.

Hon. Mr. HAIG: Mr. Minister, I find that under this section there is no equalization of rates between, say, Brandon in Manitoba and Edmonton in Alberta. Edmonton is about 700 miles farther than Brandon from Ontario, Quebec and the Maritime provinces. Canned goods coming from Quebec, Ontario and the Maritimes will bear the same rate to Edmonton as to Brandon. I cannot understand how that is equalization.

Hon. Mr. CHEVRIER: Well, Senator Haig, perhaps the best way I can answer it is by saying that I don't think anyone can say what the equalization will be until the Board has completed its hearings. All this legislation does is enable the Board to equalize rates in conjunction with RC 1487 investigation into the freight rate structure. When the Board has heard all the submissions and briefs, then it can submit a plan for equalization, in so far as equalization is possible across Canada. When you raise the question of a particular rate, I am unable to deal with it. I wish I could.

Hon. Mr. HAIG: But you missed my point. The Board cannot touch this particular rate. If section 332B is passed, it is beyond the Board's jurisdiction.

Hon. Mr. CHEVRIER: Yes.

Hon. Mr. HAIG: And you can't equalize it.

Hon. Mr. CHEVRIER: Sorry, I misunderstood your question.

Hon. Mr. HAIG: By this section you make it arbitrary, and the Board is bound by it.

Hon. Mr. CHEVRIER: Yes, you are quite right, section 332B is an exception to equalization.

Hon. Mr. HAIG: It is an exception all over that territory.

Hon. Mr. CHEVRIER: Quite.

Hon. Mr. REID: While we are on the point of equalization, and I think everybody is in favour of it, may I ask why British Columbia continues to suffer the injustice she does on her domestic grain rates? Why should export grain be carried at half the rate that domestic grain is carried?

Hon. Mr. CHEVRIER: Of course, Mr. Chairman, that raises a point that we could discuss for a long time. It was felt by the government that we should not touch the grain rates, or the Crowsnest rates.

Hon. Mr. REID: But, I do not think we get the Crowsnest rates on our domestic grain. That is our complaint. The grain going to Great Britain, Australia and elsewhere is carried at half the rate that domestic grain is carried, with which we feed our cattle and poultry. I should like to see that equalized, if possible.

Hon. Mr. CHEVRIER: There is no doubt a great deal in what Senator Reid says, but we submitted this whole question to a Royal Commission, and the government decided to accept its recommendations, and they are incorporated in the bill.

Hon. Mr. CRERAR: Just to follow up Senator Reid's observation, it is within the power of the Board to apply the equalization principle, if they saw fit to do so?

Hon. Mr. CHEVRIER: Yes; there is always the general section in the Railway Act.

Hon. Mr. CRERAR: I am just looking for light, and I must confess that I have difficulty in finding it.

Hon. Mr. CHEVRIER: Of course this is a pretty complex question, and one that is difficult to follow.

Hon. Mr. CRERAR: The general principle is that, as far as possible, we will try to reach an equalization of the freight structure in Canada. That is a very laudable principle, on which to build this framework. On the question of the consideration the Board gives to applications, there are several exceptions: First, the freight rates east of Montreal, moving from that area to the Atlantic seaboard; second, an injunction is laid on the Board that the interior rates to a point like Edmonton or Calgary, for instance, are not to be more than one and one-third the transcontinental rate to Vancouver; and the third exception is that the Transport Board cannot interfere with the statutory Crowsnest Pass Rates. Of course, they could not do that anyway, without an amendment to the statute.

Hon. Mr. CHEVRIER: That is right.

Hon. Mr. CRERAR: Are there any other exceptions?

Hon. Mr. CHEVRIER: Yes, there are: The international rates, the import and export rates, the rates on the Yukon and White Pass Railway. I am informed the two former are already equalized.

Hon. Mr. HAYDEN: Mr. Minister, dealing with the question of one third: The way the bill is drawn, section 332B would appear to make one-third the maximum over the transcontinental rates, which the Board may permit to be added to the transcontinental rates.

Hon. Mr. CHEVRIER: Yes; I am so informed.

Hon. Mr. HAYDEN: Possibly it should be a little more flexible. Perhaps words such as these could be adopted: "Unless for a good cause the Board otherwise orders...". That would make the one-third more flexible; in the circumstances in which there was a decision that it should be more than one-third, the Board would have power to deal with it. Can you see any possible objection to that?

Hon. Mr. CHEVRIER: Yes, I do, Senator Hayden. I would have to object to that suggestion for the same reason that I mentioned a moment ago, and perhaps the committee will not find this a valid reason, but for what it is worth I give it to you. This matter of the one and one-third rule was discussed in committee, with Counsel for the provinces there, and Counsel for the provinces went away satisfied that the one and one-third rule at least for certain provinces—but not for all provinces, for I know British Columbia raised an objection—

Hon. Mr. HAIG: And Manitoba.

Hon. Mr. HAYDEN: When you say discussed in the committee, you mean in the Commons committee that considered the measure?

Hon. Mr. CHEVRIER: Yes.

Hon. Mr. HAYDEN: They were doing exactly what we are doing now.

Hon. Mr. CHEVRIER: I did not know Counsel for the provinces were here.

The CHAIRMAN: Yes, they were; Counsel for Manitoba and British Columbia strenuously objected to certain provisions.

Hon. Mr. CHEVRIER: Then I must repeat what I said in the other committee, namely, that I would have to object to the proposed change. I would object to it for several reasons: First, an interdepartmental committee spent a great deal of time on drafting this legislation, and considered very carefully the effect of the one and one-third rule. They realized that there would be objections, but after having given it careful consideration, they recommended as the bill is drafted.

Hon. Mr. HAYDEN: But this is not a matter of draftsmanship. This is a matter of substance and principle. We are not complaining about the drafting in relation to these two items.

Hon. Mr. CHEVRIER: But the amendment you propose would change the effect of the one and one-third rule, and would mean that the whole of Alberta and at least half of Saskatchewan would come back again to the government and say they are still being discriminated against. The representations made by these provinces before the Royal Commission were that they had to pay 200 per cent of the increase in so far as the movement of their goods across the continent was concerned. If the amendment you suggest were put in, it would not make statutory the one and one-third rule; it would be left open to the Board to decide in certain cases whether or not there should be an amendment.

All I can say is that I feel that that would disturb the proportion that we thought at least existed in the bill, and certainly it would disturb that particular recommendation of the Royal Commission, to which very careful thought has been given.

Hon. Mr. CAMPBELL: Mr. Minister, surely dealing with legislation on such a technical question as rate-making, you could leave some discretion to the Board of Transport Commissioners to deal with the problems that may prove to be unfair to one section of the country, and it would not be changing the policy to any great extent.

Hon. Mr. CHEVRIER: Well, that is the point. Is it unfair to one section or another?

Hon. Mr. HAIG: It is to Manitoba.

Hon. Mr. CAMPBELL: I don't know that anyone can say.

Hon. Mr. CHEVRIER: You have answered the question. As I understand it, I do not think you can say until the equalization program has been put into effect and until this legislation has been tried.

Hon. Mr. HAYDEN: Then what happens?

Hon. Mr. CHEVRIER: Suppose the legislation is tried, and it is proven to be as you say it is, we can amend the law.

Hon. Mr. CAMPBELL: That is exactly my point. This is revolutionary in character, and it is being done by statute; you are tying the hands of the Board, who are experts, set up to deal with rate-making in Canada. We have heard the strongest representations from British Columbia and Manitoba as to the statutory manner of putting in this one and one-third rule. A suggestion has been made that words might be added to the section which would not in any way destroy the policy or principle of the legislation, but would vest in the Board some discretion to meet any hardship that may arise.

Hon. Mr. CHEVRIER: Well, for what my opinion is worth, I think it would destroy the intent of that section if you were to add those words.

Hon. Mr. CAMPBELL: One other question. The effect of this section: of course it has destroyed equalization in so far as the commodities moved under that section are concerned?

Hon. Mr. CHEVRIER: That is so.

Hon. Mr. CAMPBELL: And it would be my feeling that if a little further discretion were left in the board you might extend your policy of equalization even within this area.

Hon. Mr. CHEVRIER: That is a matter for the committee to decide. I have said what I think.

Hon. Mr. HAYDEN: Mr. Minister, you said if we changed in any particular the language of this one-third we would destroy the intent of the section. Well, now, that answer would appear to shut the door on the possibility of there being future amendments, because the basis on which we are urging this change at the present time so as to give some discretion to the board would be the basis on which any amendment in the future would be presented to you.

Hon. Mr. CHEVRIER: No, I do not think it would disturb that, for this reason, that if the fears such as expressed by British Columbia and Manitoba are in effect true, and they prove so after an equalization plan has been put in effect, and after this statute becomes the law—and that will be a matter, as has been explained by many of the witnesses, of some years—then surely during that time it will be possible to make an amendment.

Hon. Mr. HAYDEN: But I am pointing out, if that is the basis of not doing it now, the same argument would hold at any time. Even when hardship was demonstrated you would still be disturbing the present intent of this section. You have given that as a reason for not amending at the present time, so whenever you amend you will be disturbing the intent and the proportions and everything else.

Hon. Mr. CHEVRIER: At least there would be a reason then.

Hon. Mr. HAYDEN: You think that fear, as expressed by British Columbia and Manitoba, at this time is not enough.

Hon. Mr. CHEVRIER: Well, I don't think it is justified. That is all I would say.

Hon. Mr. CAMPBELL: Would not the board have to have a reason before they could make that change? If we put some amendment in, giving them some discretion, surely the board would have to have a very strong reason for making any change; and it seemed to me that there is nothing to fear. If no hardship develops, what have you to fear in such an amendment?

Hon. Mr. CHEVRIER: Well, I am not going to discuss it any further. I have been asked for my opinion, and I am giving my opinion. Now you are asking me as to whether or not the board would—

Hon. Mr. CAMPBELL: No, no. I do not think you have got my point. Mr. Knowles, in giving his evidence, said very clearly that this was a very complicated matter to deal with—rates generally are complicated to deal with—and that he felt that throughout the whole act there is discretion left in the board in dealing with this policy of equalization. But he admitted that there was no discretion left in the board in dealing with transcontinental rates under section 332A. Now what I am saying is that the legislation should not be drafted in such a manner that it will take away all discretion from the board so that they cannot deal with matters of extreme hardship—

Hon. Mr. CHEVRIER: Well, the—

Hon. Mr. CAMPBELL: Let me finish: and particularly when we have had such strong representations from two of the western provinces on this particular subject.

Hon. Mr. CHEVRIER: Well, perhaps it is not a reason. Perhaps you are right. I am not prepared to say. I am not an expert. But it is the government's view that that particular recommendation, along with the others of the royal commission, should be implemented.

Hon. Mr. REID: If this is a benefit to British Columbia, I would like to see it tied in definitely in the act. There has been too much legislation and too many doubts expressed before the Board of Transport Commissioners in the past; and if you allow them leeway, there will be nothing but litigation and doubt for many years to come. I hope that this is a benefit as promised by the minister.

Hon. Mr. CRERAR: Could not the minister give us some information on this point ? There are six or seven sections in the act where the hands of the board are tied as far as applying the equalization principle is concerned. They say you cannot touch this or that or the other thing. What area does that leave where the board has free action? What area does it leave to the board for free action to comply with this principle?

Hon. Mr. CHEVRIER: Well, I think I made the statement in committee that the area was divided pretty much fifty-fifty. In other words, the traffic upon which there could be equalization was about 50 per cent of the total, and the traffic covering the exceptions was about 50 per cent of the total. Then Mr. Evans later on made a correction, and I think it was 47-53 or 46-54. It is almost 50-50, in any event.

Hon. Mr. KINLEY: Is that mileage, or tonnage?

Hon. Mr. CHEVRIER: No, that is traffic, in tonnage.

The CHAIRMAN: Well, the minister will have to go to the Commons in a few minutes. We are very grateful to him for coming and giving us his views. Are there any more questions the committee would like to ask?

Hon. Mr. STAMBAUGH: As I understand it, the board can equalize these rates, but there is a maximum set that they must not go over, and a minimum they can come under if they want to. Is that right?

Hon. Mr. CHEVRIER: I don't think so. Equalization is a plan that the Board of Transport Commissioners will have to put into effect. What it is I do not know. The railways have already submitted a plan, and that plan is being examined now. It does not deal with maxima and minima, but my understanding is that the rates in the West are somewhat higher than they are in Central Canada. The intention of this is to bring them on the same level.

Hon. Mr. STAMBAUGH: I understand that. What I mean is, this one and one-third is a maximum. They must not exceed that. Is not that right?

Hon. Mr. CHEVRIER: I am informed so, yes. "Shall not exceed by more than one and one-third".

Hon. Mr. SHAMBAUGH: But if they want to put in a freight rate to Brandon the same as to Edmonton, they can.

Hon. Mr. CHEVRIER: I would think so.

Hon. Mr. HAIG: It would be taking the goods another seven or eight hundred miles at the same figure, which I do not think any railroad could do.

Hon. Mr. STAMBAUGH: They are doing it now. They are carrying goods to Vancouver.

Hon. Mr. HAIG: That is transcontinental rates. But, as I understand, the minister has admitted to me that the rate is permanent; that this makes it consitutional. The board have no control at all.

Hon. Mr. CHEVRIER: That is right.

Hon. Mr. HAIG: The only people who can cut it down would be the railroads themselves. It is statutory. The companies have represented to us that if this rate goes into effect they lose over the other rate; so the only thing they can do is raise this transcontinental rate to the coast.

Hon. Mr. KINLEY: Did they say that— that the only thing they can do is raise the transcontinental rate?

Hon. Mr. HAIG: Or they would lose money.

The CHAIRMAN: Are there any further questions to the minister? I again want to express our gratitude to you, Mr. Minister, and thank you for your enlightenment.

Hon. Mr. CHEVRIER: May I leave?

Hon. Mr. HAIG: Yes.

The CHAIRMAN: Thank you.

Gentlemen, I mentioned yesterday that a statement had been received from the Canadian Industrial Traffic League, and copies are available. How shall we now proceed? Does the committee feel that we have had enough evidence and that we should proceed to consider the bill?

Hon. Mr. KINLEY: Time is running out and there is other important legislation to be dealt with. I think we should proceed with the bill and try to get through with it today.

The Hon. the CHAIRMAN: Is it the view of the committee that we do not want to hear any other evidence?

Hon. Mr. HAYDEN: Is there anybody else here to be heard?

The CHAIRMAN: Nobody has approached me asking to be heard. If that is the case, then we shall proceed to consider the bill.

The committee then proceeded to discuss the bill.

OTTAWA, Tuesday, December 11, 1951.

The Standing Committee on Transport and Communications, to whom was referred bill 12, an Act to amend the Railway Act, met this day at 10.30 a.m.

Hon. Mr. HUGESSEN in the Chair.

The CHAIRMAN: Gentlemen, if the Committee will come to order, we have a quorum. We have received a communication addressed to the Clerk by the Canadian Industrial Traffic League. The Canadian Industrial Traffic League does not apparently wish to appear before us, but they told the Clerk that they were forwarding for submission to the committee thirty copies of the brief which they submitted to the House of Commons Committee. The Clerk informs me

that these copies have not yet been received; but, unless the committee otherwise directs, I will instruct the Clerk that when the copies are received they be forwarded to members of the committee.

Hon. Mr. KINLEY: That is on Bill No. 9?

The CHAIRMAN: No, that is all about Bill No. 12, Senator Kinley. The Clerk informs me that the League submitted a brief on Bill 9. It is not important that we refer to it now. The brief they are submitting refers to Bill No. 12.

One thing further I think I should say before we begin, and that is, honourable senators will recall that there was some discussion with regard to the representations by the Bell Telephone Company regarding Clause 12 of the bill, and it will be recalled that it was left with counsel for the Bell Telephone Company to discuss with counsel for the Transport Department and with our Law Clerk, to see whether they could not work out an amendment which would satisfy everybody. I am informed that it has now been done, and there is a very simple amendment to section 12 which will be submitted when we come to consider that section, which satisfies the telephone company.

Hon. Mr. HAIG: Why not consider 12 now, as it is agreed to; because some of the others may take quite a long discussion?

The CHAIRMAN: Well, when we are at the point when we can consider this bill clause by clause I think perhaps we might do that, Senator. Members will recall that when we adjourned on Thursday afternoon we had reached a point where none of us seemed to know exactly what was meant by the amendment made in the other place to section 332A, at the bottom of page 6, with regard to freight movements in the Maritime Provinces, and the amendment which is to be found in subparagraph (*f*) of subsection (4) of section 332A, at the foot of page 6, and that we had directed our Law Clerk to get in touch with counsel for the Department of Transport and counsel for the Maritime Provinces and with counsel for the two railways, in an endeavour to clarify the matter and see whether they could reach any agreement as to what amendment, if any, was required to that subparagraph (*f*). I think perhaps the first thing we should do now is to ask our Law Clerk to give us a report on the result of the conferences that he had with these other counsel over the week-end, and perhaps he can inform us as to his views after a further study of 332A, as to just what subparagraph (*f*) in its present form may mean. Will you give us a report, Mr. MacNeill?

Mr. John F. MACNEILL: Mr. Chairman and honourable senators: at the last sitting of this committee we were discussing section 332A, and the Hon. Mr. Hayden said "we want to know first, what it is that the government intends as a matter of policy by this section, then let us put it into plain language." The committee instructed me to get in touch with counsel for the Department of Transport, counsel for the Maritimes and the counsel for the Railways; that was done, we had a meeting on Friday morning, and we discussed this very fully. I do not think we agreed on what was meant, and we certainly did not agree on a draft to carry out what we did not know was the policy.

Hon. Mr. HAYDEN: That is a good start!

Mr. MACNEILL: Yes, that is a good start. We had a further meeting yesterday morning, and we did not get any further with that. I have since had discussions with individual senators and with individual counsel, and the last discussion I had was a few moments ago up in my room, where we agreed to disagree. That puts us back to where we were when we started.

The section, as I see it,—does this. In the first subsection it sets out an equalization policy. In the next two subsections it gives a direction to the Board of Transport Commissioners as to how that board is to carry out the policy set out in subsection (1). Then in subsection (4) it says that these

first three subsections are not to apply to Crowsnest Pass rates nor to the Maritime Freight Rates Act. Now, when you get to that point, there are other movements that are not to be subject to the equalizaion policy, and these movements are set out in paragraphs (*a*), (*b*), (*c*), (*d*), (*e*), (*f*), and (*g*). The paragraphs enumerate the various movements that are not to be subject to section 332A, subsections (1), (2), and (3).

Now, in my opinion—I do not know that anybody else agrees with this, but this is my interpretation of it—if you wish only to preserve the Maritime freight rates position and nothing else, there is no need for paragraph (*f*). If you want to preserve something more than that, that is if you want to preserve something west of Levis, then you must have something in the nature of paragraph (*f*). That is my opinion. I do not think everybody agrees with that.

Hon. Mr. FARRIS: Would you repeat that, Mr. MacNeill?

Mr. MACNEILL: I say, if you only want to deal with the Maritime Freight Rates Act, that is that territory which is east of Levis, then you have done that when you exclude the Maritime Freight Rates Act from the operation of the equalization policy.

Hon. Mr. FARRIS: That is in the main part of subsection (4).

Mr. MACNEILL: The main part of subsection (4), yes. If you want to go beyond that you come to (*f*), and (*f*), in my opinion, deals with the traffic west of Levis.

Hon. Mr. REID: That certainly has never been revealed up until now.

Mr. MACNEILL: I think it has. I think Mr. Knowles agrees with that. I don't know whether he does or not, but that was my understanding of Mr. Knowles' position. Is that right?

Mr. L. J. KNOWLES: I do not think, gentlemen, I should be called upon to express an opinion upon a legal matter.

Mr. MACNEILL: All right, then. That is my opinion, and that is what I am giving. Other people may not agree with that. I do not think they do. But if you only want to preserve the Maritime Freight Rates Act itself, I do not think you need (*f*). If you want to preserve a movement west of that territory, then I think you do need (*f*). And the question is, how far do you want to go?

Hon. Mr. REID: I think most of the Maritime members and the provincial representatives were agreeable to preserving the 20 per cent, but this is certainly a new angle when they open it up clear across to Vancouver. It certainly cannot be equalization of rates or anything like it if that goes into effect.

Mr. MACNEILL: Well, that is a matter of opinion.

Hon. Mr. KINLEY: Is this to preserve what we have got now?

Mr. MACNEILL: As I read the section as it is drafted with (*f*), you preserve the situation as it is today.

Hon. Mr. KINLEY: You preserve the 20 per cent?

Mr. MACNEILL: You preserve the 20 per cent plus anything else you have. Put it this way. It leaves the matter in the hands of the Board of Transport Commissioners. That is my opinion, for what it is worth. We have not agreed on that. I do not think Mr. Evans or Mr. Matthews agrees with that.

The CHAIRMAN: In other words, your view, Mr. MacNeill, is that under subsection (4) as a whole as it reads now, first of all the Maritimes preserve all their rights under the Maritime Freight Rates Act?

Mr. MACNEILL: Yes.

The CHAIRMAN: Secondly, with regard to any other revision of rates in the Maritimes the whole matter is thrown back to the Board of Transport

Commissioners. It takes rates to and from the Maritimes out of the equalization provisions of section 332 (*a*) and leaves the whole thing up to the Board of Transport Commissioners.

Mr. MACNEILL: That is the way I read it.

Hon. Mr. HAIG: Let me ask you a question. Apparently your opinion is that if I, as a manufacturer in Halifax want to send goods to Regina, that whatever the rate is now—if that (*f*) goes in—the same rate would apply to Regina.

The CHAIRMAN: No.

Mr. MACNEILL: No, not necessarily.

Hon. Mr. HAIG: No mileage would come in?

Mr. MACNEILL: It would not be based on the equalization section 332 A (1).

Hon. Mr. HAIG: Suppose I was manufacturing the same kind of goods in Montreal and I wanted to send them to Regina, then they would have to be based on the equalization. Is that so?

Mr. MACNEILL: Yes.

The CHAIRMAN: Perhaps, Senator Haig, we could put it this way: In the case of the manufacturer from Montreal selling to Regina it would have to be based on equalization. In the case of the manufacturer from Halifax, it would not necessarily be based on equalization but it would be left to the Board of Commissioners to determine.

Hon. Mr. HAYDEN: I think it is important we get a statement of policy from the Minister as to what was intended and how far this was intended to go. Since he is not available, my suggestion is that we defer consideration of this particular subsection and deal with other sections of the bill.

The CHAIRMAN: Well, the Minister's Parliamentary Secretary is here. Perhaps he would be willing to give us the Minister's view.

W. M. BENIDICKSON, M.P.: On that I take the same position I did the other day. As I explained, the Minister has legislation in the other house and I am going to accumulate the controversial points that you want to hear from him about. On this particular question I think we might hear from Mr. Smith. This amendment was placed here as a result of discussions in the House of Commons Committee. Mr. Smith, speaking for the Maritime Provinces and their transport association, Boards of Trade, and so on, was in the picture in the drafting of this change in the original Act, and I think that Mr. Smith's comments on this section might be helpful to the committee.

Hon. Mr. HAYDEN: We still want to know what the government policy is with respect to this section so that we can deal with it.

Mr. BENIDICKSON: Senator Haig expressed the desire to be sure that the Maritime position is being taken care of and I think Mr. Smith could give some assurance of that.

Hon. Mr. HAIG: I agree with Senator Hayden. As far as Western Canada is concerned I think I can speak with quite a bit of authority. If the government wants to put in paragraph (*f*) and if it means what I always thought it meant—and my friend Mr. MacNeill confirms that—then this is good for the West. It means that undoubtedly Ontario and Quebec will have to pay greater freight rates. Naturally we will buy our goods from the Maritime Provinces because we can get a cheaper rate, so we are not going to lose either way. But I agree with Senator Hayden that the Minister should tell us what is intended. It is not what the legal opinion of Mr. MacNeill or Mr. Smith or anybody else is. What does the Minister want done? Does he want to hold the freight rates to Levis or whatever the west point is now and have equalization apply to the rest of Canada, or does he want to give it to the Maritimes

right clear through without question? There is no use in getting Mr. Smith's opinion. He may agree or disagree with Mr. MacNeill and we will have two opinions. We ought to hear from the Minister as to what he intends to do. I cannot speak for British Columbia but I can for the three Prairie Provinces. We will certainly vote to put paragraph (*f*) in if we are selfish, but the people who will get it in the neck are those from Ontario and Quebec.

Hon. Mr. REID: How will they get it in the neck? Their rates are far lower now.

Hon. Mr. HAIG: They will have to pay a greater rate. I think we should have a statement from the Minister as to what he intends.

Hon. Mr. REID: I think it is the West who will pay the rates. I do not think Ontario will because of the competition of boats and trucks.

Hon. Mr. HAIG: That is not the point, though. The point is that the manufacturer of goods in Ontario who is selling his goods to Western Canada, to the Prairie Provinces, has to know that he has to pay a certain freight rate on those goods. We have to pay it in the West. That is what I am objecting to. If we can get a cheaper rate out of the Maritime Provinces, that is what we want.

Hon. Mr. KINLEY: I think it is fair to say that all it does is to preserve what we have got.

Hon. Mr. HAIG: Exactly. I admit that.

Hon. Mr. REID: Section 4, before you come to the subsections, protects the Maritimes. Mr. MacNeill has said, as I understand him, that if you leave section 4 as it now is without paragraph (*f*) it would still preserve the Maritime freight rates, and paragraph (*f*) is something more again. I may be wrong, but I think that is what Mr. MacNeill said.

Hon. Mr. HAIG: I agree with what Mr. MacNeill said. He said only as as far as the Maritime Freight Rates Agreement apply to Levis and east, not Levis and west. I have always had the opinion that this gives Levis west as well as Levis east. I want to know if that is what the Minister wants to do.

The CHAIRMAN: I think perhaps it could be put a little clearer than that. What it does, according to Mr. MacNeill's opinion, is two things. Section 4, as it now reads, first of all preserves the rights of the Maritimes with regard to the Maritime Freight Rates Act. Secondly, by paragraph (*f*) it takes rates to and from the Maritimes out of the equalization provisions of section 332 (*a*) and leaves the whole thing up to the Board of Transport Commissioners; so that whether there be higher or lower rates is not in issue here. It is a question of what the Board of Commissioners is going to decide. I would be interested, before we ask the Minister to deal with this, to find out whether Mr. Matthews and Mr. Smith have the same view as to the legal interpretation of the section as it now is. Would it not be valuable for the committee to know whether counsel has that view?

Some Hon. SENATORS: Definitely.

The CHAIRMAN: Mr. Matthews, do you agree with Mr. MacNeill as to the legal effect of subsection (4) as it presently stands in the bill?

Mr. MATTHEWS: I would say that paragraph (*f*) is capable of that interpretation.

Hon. Mr. HAYDEN: You say it is capable, but the other day when you were expressing your opinion you thought the section was indefinite in its meaning and that it would undoubtedly end up in the courts.

Mr. MATTHEWS: I did not go that far. I said it may go to the courts. Since that time I have discussed the matter with traffic experts and other counsel, and I would now say it is capable of the interpretation placed on it by Mr. MacNeill.

Hon. Mr. FARRIS: Is it capable of any other interpretation?

Mr. MATTHEWS: Well, it might be, senator.

Hon. Mr. HAYDEN: Do you hold to the interpretation you gave us the other day, that all that this does is to seal off the Maritime rates at Levis?

Mr. MATTHEWS: No, sir. I think I would have to revise that opinion.

Hon. Mr. HAYDEN: And your opinion as now revised is the same as Mr. MacNeill's?

Mr. MATTHEWS: I would say that it is capable of his interpretation.

Hon. Mr. HAYDEN: That is not an answer to my question.

The CHAIRMAN: Senator Farris asked if it is capable of another interpretation.

Mr. MATTHEWS: It might be, senator.

Hon. Mr. FARRIS: What?

Mr. MATTHEWS: Well, the interpretation that a line is drawn at Levis. As I said at the last meeting, the equalization section might apply west of Levis, but I have consulted with some rate experts and they all take the contrary view, in accordance with what Mr. MacNeill has said.

Hon. Mr. REID: I know the lawyers will not like what I am going to suggest, but can we not put into the Act something that will prevent a repetition of the costly litigation that has been going on for the past many years? British Columbia has spent millions of dollars in going before the Board and the courts. This will lead to more expenditures of the same kind, and of course that would be good for the lawyers.

Hon. Mr. HAIG: Hurrah.

Hon. Mr. REID: Why not put in the bill something to prevent that?

The CHAIRMAN: Senator Reid, I had a long discussion about this with Mr. MacNeill yesterday afternoon, and we reached the conclusion that whatever we put into this bill is bound to be subject to dispute, that we cannot legislate for the future so clearly as to prevent submission of the matter to the Board of Transport Commissioners, first of all, and then to the courts.

Hon. Mr. REID: It seems to me there would not be much trouble if we left section 332A as it was and did not vary it by saying that the Board can do this and that.

The CHAIRMAN: If the committee is through with Mr. Matthews on this point, would Mr. Smith be good enough to give us his views? Would you tell us, Mr. Smith, whether you agree with Mr. MacNeill as to the legal effect of subsection (4) (*f*) as it now stands?

Mr. F. D. SMITH, K.C., *Counsel for the Maritime Transportation Commission*: Mr. Chairman and honourable senators, my view, for what it is worth, is that the section as originally drafted provides for a statutory equalization scheme—

The CHAIRMAN: You mean before this amendment was put in?

Mr. SMITH: Yes, the bill as introduced. My submission is that by the words which have been used in paragraph (*f*) there is taken from the statutory direction the imperative provisions of the bill.

The CHAIRMAN: Of section 332A (1)?

Mr. SMITH: Yes. In my respectful submission the provision which has been inserted in paragraph (*f*) merely preserves the position that existed before the bill was introduced; and that the Board's powers with respect to equalization will, if this is put in, be found in the powers which the Board now has. As I said when I addressed this committee some weeks ago, we desire to be in the position that we were in before the introduction of the bill, and I made the same argument before the committee of the other house. I say that the amendment in paragraph (*f*) does not take away any of the powers given to the Board by the Railway Act. An exclusion cannot go further than the thing itself, the object of the bill, so in my submission it is not quite correct to say that by virtue of paragraph (*f*) the movement of traffic from the Maritime provinces all over Canada is frozen. I say that if this bill is passed with paragraph (*f*) as now drafted, the Board's powers will still be unfettered and untrammelled.

The CHAIRMAN: But it does not necessarily have to apply the equalization provisions?

Mr. SMITH: Mr. Chairman, as I understand it, it removes the imperative provisions of the bill. I submit, Mr. Chairman and honourable senators, that under the bill as introduced there would be an imperative duty and obligation upon the Board, if it was doing its duty, to put into effect this national policy of equalization. What I am asking for is that there be not an imperative injunction or direction, but that it be left to the discretion of the Board as to whether or not that should be done; and that, in my respectful submission, is all that this proposed amendment does.

The CHAIRMAN: In other words, you agree with Mr. MacNeill's interpretation?

Mr. SMITH: I agree with Mr. MacNeill's interpretation.

Hon. Mr. HAIG: Mr. Smith, there is a problem that confronts me. The bill as now drafted would preserve the rights up to Levis—or, let us say, up to Montreal—as they are now. But under this section would the Board have power to enforce the equalization rates against your goods moving from Montreal west?

Mr. SMITH: I would say that this bill does not give us anything, Mr. Senator. As I see it, it doesn't give us anything.

Hon. Mr. HAIG: I know it does not give you anything, but does it prohibit the Board in any way? Will you please answer my question about the manufacturer in Montreal who gets a rate to Regina. Does a manufacturer in your province have to pay the same rate to Regina as the Montreal manufacturer?

Mr. SMITH: I say this bill does not take away the right of the Board to deal with that matter.

Hon. Mr. HAYDEN: Let us see, now. It does not take away the right of the Board to do it? You mean, imperatively?

Mr. SMITH: Imperatively, yes.

Hon. Mr. HAYDEN: That is, they may or they may not do so.

Mr. SMITH: That is right.

Hon. Mr. HAYDEN: They enjoy the authority to do it, if they want it.

Mr. SMITH: That is right, Mr. Senator.

Hon. Mr. HAIG: But in Ontario and Quebec they have got to do it?

Mr. SMITH: Yes, without any amendment, I think that is quite right.

The CHAIRMAN: But it does give the Board the discretion if it feels so disposed, to retain for the Maritimes, the groupings and arbitraries which it now enjoys?

Mr. SMITH: Yes, it does. I think there is no doubt about that. In other words, the status quo is preserved to that point, but the Board still has authority to deal with it; it is not imperative.

Hon. Mr. HAYDEN: When you say "status quo is preserved," is that exactly correct?

Mr. SMITH: I think so, Mr. Senator.

Hon. Mr. HAYDEN: Now is it?

Mr. SMITH: I think so, sir. In other words, there is nothing positive. This is not a bill within a bill.

Hon. Mr. HAYDEN: If you say the status quo is preserved, then you must mean the rates are frozen at their present level?

Mr. SMITH: No; that is not quite the suggestion.

Hon. Mr. HAYDEN: I am not quite sure what you meant.

Mr. SMITH: I referred to the Board, when I mentioned the status quo; there is nothing taken away from the Board.

Hon. Mr. HAYDEN: The rates are not preserved, but the powers of the Board are preserved.

Mr. SMITH: Yes.

The CHAIRMAN: Regardless of subsection 1 of section 332A?

Hon. Mr. HAYDEN: Yes.

Mr. SMITH: I do not think I can usefully say anything more.

Hon. Mr. REID: Before you leave, what would be the effect if paragraph (*f*) were left out, and the section simply read that equalization would not apply to the Maritime Freight Rates or the Crowsnest Rates? What would the effect be of such an omission?

Mr. SMITH: To the first part of your question, I can give a ready answer: The Crowsnest Pass is a statutory rate, and it is not affected. As to the Maritime Freight Rates Act, that is a question of the construction of the Act. The bill, when introduced, excepted the provisions of the Maritime Freight Rates Act. We are now asking for something over and above the Maritime Freight Rates Act, for the preservation of our position beyond that point. The Maritime Freight Rates Act, as you know, Mr. Senator, dealt with our so-called preferred movements, and it was always the policy of the government in introducing a bill, to preserve the Maritime Freight Rates Act as far as it went. The effect is to maintain unimpaired the powers of the Board as at the present time.

Hon. Mr. HAIG: I may appear stupid, but I again ask, why do you need paragraph (*f*)? If the Maritime Freight Rates are statutory, as are the Crowsnest Pass Rates, then you do not need it.

Hon. Mr. KINLEY: But they are not. One goes up and down, and one is statutory.

Hon. Mr. HAIG: They are both statutory; statutes were passed by parliament for the Maritime Freight Rates Act, the same as for the Crowsnest Pass.

The CHAIRMAN: May I attempt to answer Senator Haig's answer, and Mr. Smith, you will see if I am right? Quite apart from the Maritime Freight Rates Act, and having nothing whatever to do with it, there are certain groupings of rates in the Maritimes, where areas come under one rate, and there are certain arbitraries which are now part of the freight rate structure of the Maritimes. These, I understand, are quite apart from the provisions of the Maritime Freight Rate Act, and deal only with movements from the Maritimes.

Mr. SMITH: Deal with local movements and east-bound export movements.

The CHAIRMAN: These the Maritimes want preserved, or at least they want the opportunity of having them preserved by the Board of Transport Commissioners, if it sees fit to do so.

Mr. SMITH: That is the answer. As I pointed out, when I addressed this committee, it has been stated in judgments of the Board that these arbitraries were an integral part of the Maritime freight structure.

The CHAIRMAN: Quite apart from the Act?

Mr. SMITH: Quite apart from the Act, but they are in the statutes. The Royal Commission, in its report, stated when there was a suggestion made that the arbitraries be frozen, that there was no freezing of arbitraries under the Railway Act.

Hon. Mr. HAIG: Does this section not freeze them?

Mr. SMITH: No, I don't think so, Mr. Chairman.

Hon. Mr. HAIG: I fail to understand why you want paragraph (*f*) in the bill; I can't understand what you get from it, that you have not already got.

Mr. SMITH: What we get is an unfettered position of the Board. If this bill in its present form is passed, the Board would have no other discretion but to interfere with this arbitrary and grouping system. The whole situation would be that if we went to the Board and asked for the maintenance of our arbitraries and groupings system, the Board would say in effect, there is a statute with an overt direction in it. All we want is an opportunity of going to the Board to try to preserve our system. I do not know whether the Board would preserve it, that is a chance we take.

Hon. Mr. HAIG: Let me put this proposition to you. If some other part of Canada would like the same rights and privileges for which you are now asking, would you see any objection to our giving it to them? If your philosophy applies to the Maritimes, it should also apply to another part of Canada.

Mr. SMITH: I don't know; I am only speaking from the position of the Maritimes, Mr. Senator. I hold no brief for the western provinces; they are very well and ably represented, and if they have any submissions to be made they will be made; in fact, submissions have been made.

Hon. Mr. HAIG: Let me put to you the position that we as senators find ourselves in. We may come from the east or we may come from the west, but when we legislate we legislate for all Canada; we must not do for one part what we would not do for another. So, if we give you the privilege of going before the Board, prior to equalization, why should we not give the same privileges to the western provinces?

Mr. SMITH: Well, I don't know that they have asked for it. I have come here and asked for it, and asked vociferously for it. The West is now satisfied with the advantages they get by equalization as far as I understand it.

Hon. Mr. QUINN: It is not fair to ask Mr. Smith to express an opinion on that.

Hon. Mr. HAIG: But they are not satisfied in some regards.

Mr. SMITH: I can't speak for them. They are the propounders of the bill, Senator Haig, and they are quite satisfied. They object to certain differences such as the one and one-third and other matters like that, but I am not discussing those questions.

The CHAIRMAN: Has the committee heard enough from Mr. Smith for the moment? Then I think we are clear in our minds as to what the legal experts now believe that the section as it at present stands means. Would the committee like the Minister to come here and tell us if that is the government policy which is being carried out?

Hon. Mr. HAYDEN: That is what I said the last day, Mr. Chairman, and I still am of the same opinion. I want to know whether these legal opinions are in line with the intention of the government?

The CHAIRMAN: Well, then, the minister's parliamentary assistant is here and has taken a note of that request, and will, I think, ask the minister to tell us if that is the government policy.

Hon. Mr. FARRIS: The legal opinions now appear to be pretty uniform.

Hon. Mr. HAYDEN: Subject to this qualification, that Mr. Matthews, in answering your question whether there was another interpretation, agreed that there was, and it was the one he gave the last day, that, even with (*f*) in there, the intention of the section was to seal off the Maritimes at Levis, and he still has the view, I gather, that that is the interpretation to put on it.

Hon. Mr. FARRIS: He backed away from that, I think.

Hon. Mr. HAYDEN: He did not back very far.

Hon. Mr. HAIG: I think we should have the information from the minister as to what he wants to do, and it is up to us whether we put it in or not, as we like.

The CHAIRMAN: The counsel for the two railway companies are here. Perhaps it would be a good thing to know if they agree with the legal interpretation we have already had. Mr. Evans, do you agree with this?

Mr. F. C. S. EVANS, K.C.: Mr. Chairman, I agree,—a little bit. I agree entirely with Mr. MacNeill when he says that if you do not want to do anything more, this preserves the Maritime position under the Maritime Freight Rates Act. Nothing is needed. I also agree with him if you want to go further, something is needed, and I also agree with him that it depends how far you want to go as to what the amendment will be.

Now, then, my view, where it perhaps differs from Mr. Smith's, is that you only need to give effect to what the minutes and proceedings show to be the desire of the Maritimes in addition to a preservation of their rights under the Maritime Freight Rates Act, to do something to preserve the system of arbitrary rates and rate groupings; and as I read the minutes of the proceedings that is precisely what counsel for Manitoba, Saskatchewan, Alberta and British Columbia said they would agree to: Now, I say this (*f*) goes far beyond preserving the system of arbitraries. First, the existing system of arbitraries over Montreal is not preserved merely by a preservation of the rights under the Maritime Freight Rates Act, because the Maritime Freight Rates Act does nothing about arbitraries. That is a system of arbitraries developed entirely from and as a distinct element in the rate structure apart from the Maritime Freight Rates Act. So that I agree with Mr. Smith that, so far as is necessary to do something in addition to preserving their rights under the Maritime Freight Rates Act, and if you want to preserve their arbitraries—

The CHAIRMAN: And their groupings.

Mr. EVANS: And their groupings,—if you want to preserve them as they now are over Montreal, the arbitraries, you have got under (*f*) merely something that will preserve the arbitraries in another form over Levis. That is a restrictive interpretation of (*f*); that is, (*f*) affects only rates east of Levis and does not affect them west of Levis. The thing that bothers me about the possible interpretation when it goes further is that it affects the Maritime movements west of Levis, and what I say, as a practical railway man—if I may call myself that—is that if you have to preserve the rates, even though you leave the right to the board to deal with those rates west of Levis, you are going to have in this country an equalized rate structure in and of itself applicable to movements between any other parts of Canada, so long as the

Maritimes are not involved; but when the Maritime movement is involved, whether it is within or without the Maritimes, you are going to have another rate structure, the old one, preserved, and that rate structure will exist for the sole purpose of applying to Maritime rates and will have to move up and down, one would assume, beside the general rate structure. And I am going to suggest it would be a retrograde step of the worst kind to preserve two rate structures in Canada. We have already enough complications in the rate structure, and if we are going to have one applicable to the Maritime rate structure elsewhere in Canada, and one applicable to the movement under an equalization scheme, elsewhere, it seems to me, from a railway man's standpoint, you have got into an impossible situation.

The CHAIRMAN: You do not contend that paragraph (*f*) preserves that situation? All you are saying is it gives the Board of Transport Commissioners power to preserve it if it is so disposed?

Mr. EVANS: I would say, with respect, I would not agree with Mr. Smith on that, because the words which precede paragraphs (*a*), (*b*), (*c*), (*d*), (*e*) and so on say that those subsections that deal with equalization do not apply. Now, then, that I would take to mean that the uniform scale does not apply.

The CHAIRMAN: Then surely the rates in and out of the Maritimes go back to the general provisions of the act and the general power of the board to do what it likes, do they not?

Mr. EVANS: I say not; but, having the duty placed on the board by the first three subsections to adopt these uniform scales, and in effect a new rate structure for the rest of Canada—that is, a direction of the board to do that—they must set it up, and then, if you say these provisions do not apply to movements in and out of the Maritimes, it seems to me the board will have to say "I have got to find something else." The intention, if Mr. MacNeill's interpretation is right, is that on movements elsewhere in Canada there has to be some other rate structure—which is the same as existed before—so that whether you call them standard rates or whether you speak of them in terms of basing arbitraries, those things have got to be preserved for the sole purpose of applying to the Maritimes. That is my point. And I say this: I have always in my appearances here agreed with what apparently was agreed to by the western provinces and what was proposed by Mr. Smith, that there may or perhaps ought to be something maintaining the present system of arbitraries and groupings; and that, I submit, can be done in the clearest kind of simple language. But this amendment does not merely preserve the present system, in fact it does away with the present system of arbitraries on Montreal, and therefore does not accomplish that purpose. It does not only not accomplish that purpose, but it goes beyond, and preserves in respect of Maritime traffic the existing rate structure; and that, I submit, is a retrograde step.

Hon. Mr. HAYDEN: Let me see if I understand that. The existing rate structure as it relates to traffic moving in and out of the Maritimes has been determined or settled by the Board from time to time, and you have a rate that exists now. Is that not right?

Mr. EVANS: Yes, senator.

Hon. Mr. HAYDEN: Well, now, this paragraph (*f*) is drawn in broad language, but until an application would be made to the Board to fix some rate higher or lower, the present rate in relation to Maritimes movement would still remain all across Canada. Is that your interpretation?

Mr. EVANS: Well, Mr. Matthews' doubt about that exists in my mind. I think that if it is capable of the interpretation that Mr. MacNeill puts on it, then you hold the problem that I put up; and if you take the narrower interpretation that Mr. Matthews offered the other day, then you are not doing what the Maritimes ask.

Hon. Mr. HAYDEN: The effect of this paragraph (*f*) is in one sense to freeze the existing rates in relation to the movement of goods in and out of the Maritimes until such time as the Board might establish another rate which may be higher or lower.

Mr. EVANS: Yes, if you call that freezing.

Hon. Mr. HAYDEN: What else is it?

Mr. EVANS: All you do is freeze the system of rates but not the level of rates. There is quite a difference there.

Hon. Mr. HAYDEN: Yes.

Mr. EVANS: There has been a contention, as you know, that the result of the Maritime Freight Rates Act is in effect the freezing of the Maritime freight rates.

Hon. Mr. KINLEY: Are they though?

Mr. EVANS: I do not think so, and I do not think they say so now.

Hon. Mr. KINLEY: As I understand it, the Crowsnest rate is fixed and the Maritime rate is a rate that is put on, less 20 per cent.

Mr. EVANS: Yes.

Hon. Mr. KINLEY: You appeared before the Royal Commission and you claimed that certain difficulties arose in connection with legal points. You mentioned the Maritime Freight Rates Act and the Crowsnest rate, and then you spoke of the assumed mileage between Fort William and Winnipeg. So, the Maritimes are not the only people concerned with this equalization matter.

Mr. EVANS: I do not hold any brief for any particular section of the country.

Hon. Mr. KINLEY: We are not asking for anything extraordinary. If you are going to eliminate this mileage between Winnipeg and Fort William which costs $7 million annually, and if you are going to keep your statute on the Crowsnest, then let us keep what we have got here. That is all I am saying.

Mr. EVANS: I am not suggesting here that you should not. I am here suggesting that you should not get more than you ask for.

Hon. Mr. HAYDEN: Mr. Evans, this $7 million that is provided annually, I suppose, is a sort of subsidy as part of the equalization scheme. In view of your interpretation of paragraph (*f*), and Mr. MacNeill's interpretation of paragraph (*f*), would not part of that $7 million be available to reflect in the maritime rates?

Mr. EVANS: Well, I think a fair answer to that is yes.

Hon. Mr. HAYDEN: But if they are not subject to equalization, is not the $7 million tied into the accomplishment of equalization?

Mr. EVANS: That is something else. You certainly get none of the other results flowing from equalization, but it seems to me you get some of the benefits from this.

Hon. Mr. HAYDEN: Are you suggesting that indirectly they are getting a benefit by virtue of paragraph (*f*)?

Mr. EVANS: I think unquestionably they are.

Hon. Mr. FARRIS: I am not a member of this committee but I should like to ask Mr. Evans one or two questions. As I read this bill, the governing subsections determining this policy of uniform freight rates are subsections 1, 2 and 3 in subsection 4.

Mr. EVANS: I agree, senator.

Hon. Mr. FARRIS: This Act expressly provides that these subsections 1, 2 and 3, to determine the policy of the Government of Canada, do not apply to the Act. Now, what lines are meant by the eastern lines in the Maritime freight rates?

Mr. EVANS: Senator Farris has asked me, Mr. Chairman, what lines are included in the eastern lines. My reply to him is that that is a difficulty in drafting. It obviously does not in these terms include Canadian Pacific lines in the Maritimes, and I have suggested to the counsel for the Department of Transport that that should be changed so as to make it clear that the territory to be taken in is "select territory" and not merely points on the "eastern lines", which are Canadian National lines.

Hon. Mr. KINLEY: But you have the privilege of coming in.

Mr. EVANS: We have, but this provides that equalization shall not apply to movements of traffic over and upon eastern lines. Now, whether there would be a legal question as to whether the equalization section would apply to movements on other lines seems to me to be very open.

Hon. Mr. HAYDEN: How could you describe it then?

Mr. EVANS: I would say "railway lines in select territory" or words to that effect. I would use the term "select territory" which is a term used in the Maritime Freight Rates Act, which is, I think, clearly understood to include territory east of Levis and Megantic.

Hon. Mr. KINLEY: Select territory coincides with eastern lines in the Maritime Freight Rates Act, does it?

Mr. EVANS: No, eastern lines are defined in section 2 of the Maritime Freight Rates Act as including those lines of the Canadian National.

Hon. Mr. KINLEY: I know, but there is another section which gives you the privilege of being part of that.

Mr. EVANS: But we merely become by section 9 entitled to bring our rate down to qualify for the Maritime subvention. Now, if you say that these subsections do not apply to the rates applicable to the movements upon or over any of the eastern lines, you exclude by the definition of section 2 in the Maritime Freight Rates Act any lines that do not fall within that definition, and those lines which do not fall within that definition are Canadian Pacific lines.

Hon. Mr. FARRIS: Does it follow that the lines designated in subsection 2 would not include the C.P.R.?

Mr. EVANS: As it is drafted in these terms.

Hon. Mr. FARRIS: And while you have power to conform to the same rates, that does not bring you within the language of paragraph (*f*).

Mr. EVANS: I agree, sir.

Hon. Mr. FARRIS: And therefore what would happen is that rates other than those fixed by the Maritime Freight Rates Act that come within the designation of eastern lines will not be subject to subsections 1, 2 and 3.

Mr. EVANS: Well, that is not too clear.

Hon. Mr. FARRIS: Do you mean what I said?

Mr. EVANS: I mean, senator, your interpretation is not quite clear. As a practical matter it does seem to me that some way would have to be found to keep the C.P.R. rates exactly the same as the Canadian National rates.

Hon. Mr. FARRIS: That is to be expected, but what I am saying is that that is just what would not happen.

Mr. EVANS: I am saying that the language used is subject to difficulty on that ground, and I should think that so simple a difficulty could be very easily corrected, that it is just a matter of drafting.

Hon. Mr. FARRIS: Did you suggest that while the bill was in the other place?

Mr. EVANS: No, sir, because I had not any suggestion on that at the time.

Hon. Mr. HAYDEN: It was not in existence then.

Mr. EVANS: It was not in existence then. It was, when we were here, but I did not deal very much with the Maritimes amendment before this committee, and the idea about Eastern lines did not occur to me until after I made the presentation here.

Hon. Mr. HAYDEN: You could have the situation that the C.P.R. would be subject to equalization in the Maritimes and the C.N.R. would not be?

Mr. EVANS: Yes. I do not think you would hear me taking that position, because I know how impractical it would be, but some interest with irons in the fire might force that issue.

Hon. Mr. KINLEY: It is all under the Board now? After you get by Levis in future, everything will be under the Board?

Mr. EVANS: What has been done by this is to direct the Board to apply equalization, but you have said that that does not apply east of Levis. If Mr. MacNeill's interpretation is right the Board will have to preserve the old rates for Maritime traffic. I do not mean to say that they will be frozen.

Mr. MACNEILL: No, I did not say that. The Board does not have to preserve the rates. They are not frozen, and the Board can adjust them.

Mr. EVANS: I think I said that.

Mr. MACNEILL: If that is what you said, I agree with you.

Hon. Mr. HAYDEN: Why not say "select territory" instead of "Eastern lines"?

Mr. EVANS: I have an amendment here for that purpose, senator: "upon or over all or any of the lines of railway in select territory, as the term 'select territory' is used in the Maritime Freight Rates Act, as amended by so-and-so". That is to fix paragraph (*f*), and to retain paragraph (*g*), on the assumption that you want to go as far as (*g*) takes you.

Hon. Mr. REID: What is your opinion of paragraph (*g*)? Does that not give the Board power to go farther than even the Maritime Freight Rates Act empowers it to go, if it considers that an exception should be made from equalization?

Mr. EVANS: I think it does. I do not think that the Board could, in the face of a reference to the Maritime Freight Rates Act, use (*g*) to do something that it could not do under the other provisions. I think that (*g*) was intended to give the Board power to deal with cases of a type that do not lend themselves to equalization. I do not think that would give the Board power to override an exception that expressly applies to Maritime freight rates.

The CHAIRMAN: Has Mr. O'Donnell, of counsel for the Canadian National Railways, anything to say on this legal question? I hope the committee agrees with me that we should try to canvass this situation as best we can.

Mr. Hugh E. O'DONNELL, K.C., of counsel for the Canadian National Railways: Mr. Chairman and honourable senators, I suppose I might try to add confusion to a certain extent. I think I can agree with Mr. MacNeill when he says that if it be wished only to preserve the Maritime Freight Rates Act provisions there is no need for this paragraph (*f*), and I also agree with him that if we want to preserve something west of Levis then something more is needed. I think that (*f*) deals with traffic west of Levis.

In answer to a question asked by Senator Farris, as to whether any other interpretation was possible, I think that as long as people can hire lawyers other interpretations will be found. There is another possible interpretation. Frankly, the thing that bothers us is the possibility that that provision in paragraph (*f*) may tend to freeze the rates in and out of the Maritimes and west of Montreal. So far as the Canadian National is concerned, there is no

desire whatever to take from the Maritimes anything they now have with respect to the methods in which their rates have heretofore been made. They have a system of groupings and arbitraries which has been in force for many years, and as I understand it they desire that that system of groupings and arbitraries shall be preserved. In other words, as I understand it, their position is that while they did not object to equalization west of Levis or west of Montreal, in so far as the Maritime arbitrary applies to Montreal, they did not wish to have their system of groupings and arbitraries disturbed. We have no desire to disturb that arrangement, and were paragraph (*f*) so worded as to make it clear that all that is being done is to preserve the system of groupings and arbitraries, we would have no hestitation in going along fully with it.

Paragraph (*f*) reads:

> rates applicable to movements of freight traffic upon or over all or any of the lines of railway collectively designated as the "Eastern lines" in the Maritime Freight Rates Act . . .

As to the first two words, "rates applicable", let us take a practical illustration. If I go to the freight shed in Moncton and ask for the rate to Saskatoon or any other point in the west, the rate that I will get will be the rate applicable. Now, that rate applicable will consist of several factors. The first factor will be the arbitrary to Montreal. Then there will be another bit added on, to take the freight to Fort William; and from Fort William there will be a third factor. Now if the section were clearly worded so that the arbitrary to Montreal were definitely preserved and taken out of the ambit of this subsection, we think that would give the Maritimes what they asked for before the committee of the other house.

Hon. Mr. HAYDEN: Mr. O'Donnell, if this section came into force do you not think that the broad language "rates applicable" would entitle an application to be made for applicable rates on the movement of goods out of the Maritimes or into the Maritimes from any place in Canada?

Mr. O'DONNELL: Yes. The rates applicable as now standing, in my interpretation—and it is only another view—means that in or out of the Maritimes the rates applicable would be such as they are today. For what it is worth, there would be an argument that those rates might be said to be frozen. I do not think that that was what the Maritime people were intending on this point. They desired to preserve their rate groupings and arbitraries, as far as the Canadian National was concerned, and we are content that they should be accorded to them. If that section were so worded, that it would mean that nothing in the section would be construed as requiring the elimination from the rate structure of the existing system of Maritime arbitraries over Montreal, and the movements of freight traffic having their points of origin or destination in the select territory, as defined in the Maritime Freight Rates Act, then I think that would protect them with respect to those two important matters.

Hon. Mr. FARRIS: Would you consider "rates applicable" to mean the rates now applicable?

Mr. O'DONNELL: Now applicable; that is the way it strikes me. The rates are taken out of the ambit of this section 332.

Hon. Mr. FARRIS: The other meaning would be, whatever rates would be applicable from time to time, would it not?

Mr. O'DONNELL: Well, as we see it now rates applicable today are rates which are in the structure, as of the date this Act is passed. I do not say my view is correct—it is just another interpretation—but it could be contended that those rates were frozen.

Hon. Mr. FARRIS: The difficulty with that is that the rates are taken out of the section. How could taking them out of the section freeze them?

Mr. O'DONNELL: On the other hand, it takes out not only that portion east of Montreal, but everything else; and they would possibly contend that the arbitraries over Fort William which, under the scheme, were to be removed, were also frozen, and should be included in a separate tariff and apply in the meantime, until parliament sees fit to amend the law.

Hon. Mr. FARRIS: How do you interpret eastern lines? Does that mean the C.N.R.?

Mr. O'DONNELL: That section does not bother me too much, because of the presence of paragraph (*g*) which reads:

> Where the Board considers that an exception should be made from the operation of this section.

I cannot conceive that the Board would not say that the C.P.R. should be on the same basis as the C.N.R., as far as eastern lines are concerned.

Hon. Mr. HAYDEN: Except that the provision should be clarified, if it is capable of clarification.

Mr. O'DONNELL: That, frankly, did not concern me too much, because I think it is a practical matter. Whatever rates the Canadian National files in the Maritimes, the Canadian Pacific would undoutedly, I assume, file similar rates; under section 9 of the Act they are free to do that. In any event, under paragraph (*g*) of subsection 4 of section 332A the necessary power is given. But that is a technical matter.

Hon. Mr. FARRIS: That is a little round-about-way of getting at it.

Hon. Mr. KINLEY: Do "rates applicable" apply to rates under the Maritime Freight Rates Act?

Mr. O'DONNELL: All the rates in and out of the Maritime provinces.

Hon. Mr. KINLEY: The C.P.R. representative said he might not share in those rates, under this interpretation.

Mr. O'DONNELL: Under the subsidy provision?

The CHAIRMAN: No.

Hon. Mr. HAYDEN: Under the wording "eastern lines".

Mr. O'DONNELL: I think he said, as a practical railway man, that he would not want to work under a different tariff than that which applied to the Canadian National.

Hon. Mr. KINLEY: Is there any significance to the fact that the C.P.R. carries nearly twice as long a haul from Montreal to the sea, as you have?

Mr. O'DONNELL: They have been working on that basis for years; there is no trouble there.

Hon. Mr. KINLEY: They get the same rate as you do, yet they have double the haul.

Mr. O'DONNELL: Yes; on that point we compete; there can't be two rates.

Hon. Mr. FOGO: May I ask a question of Mr. O'Donnell? If the construction that you put to the term "rates applicable" is correct, and that meant that such rates were frozen, how would you avoid applying the same construction to the exceptions under paragraphs (*a*), (*b*), (*c*) and (*d*)?

Mr. O'DONNELL: I think there is like application. My only point, Senator Fogo, was what I understood to be the request of the Maritimes; to preserve their rate groupings and arbitraries. My respectful suggestion is that paragraph (*f*) goes a little beyond that, and if paragraph (*f*) were dropped, it would not require the elimination from the rate structure of the arbitraries over Montreal and the rate groupings; that would give the Maritimes the protection they want; and if the equalization program were put in, the rates west of Montreal are going to vary.

Hon. Mr. Fogo: What I was thinking of was the theory that the statute is always speaking. The rates applicable would likely mean the rates at the time, that is, the current rate, and similarly the agreed charge, or competitive rate, or joint international rate?

Mr. O'Donnell: A new rate that came in would be something but that is not the point. An agreed charge would be a new rate. These rates have been in force in the Maritimes for years and years.

Hon. Mr. Fogo: But my point is, on your suggestion, the rates under paragraph (*f*) would not be any more frozen than the rates referred to under paragraphs (*a*), (*b*), (*c*) and (*d*).

Mr. O'Donnell: No, but I think in the light of the request which the Maritimes made, that the wording as it now stands goes beyond what they asked for.

Hon. Mr. Fogo: I understand that.

Mr. O'Donnell: And that they would be fully protected if that were spelled out; that their arbitraries and groupings were not to be interfered with. But west of Montreal, whatever the rate structure would be, it would free the procedure. When Maritime freight got to Montreal, it would go the balance of the trip at whatever was the scale of rates in force, and they would have to be paid.

Hon. Mr. Fogo: And that would provide a new factor to be added?

Mr. O'Donnell: Yes; but the factor east of Montreal would be taken care of. The Maritimes should have that, without any question, in my view.

The Chairman: I do not want the committee to think that I am in conspiracy with Mr. O'Donnell, but in view of the point he has raised, I think I should draw the attention of the Committee to the fact that our Law Clerk prepared a suggested alteration to cover exactly the point that Mr. O'Donnell has covered. Our Law Clerk suggested that paragraph (*f*) of section 4 should be struck out, and in its place there should be a new subsection at the end of section 332A, reading as follows:

> (5) Nothing in this section shall be construed as requiring the elimination from the rate structure of the existing system of the Maritime arbitraries and rate groupings on movements of freight traffic having their point of origin or destination in the select territory, as defined in the Maritime Freight Rates Act.

That seemed to cover what the Maritimes were really contending for, when they were before the other committee. They did not want to have the equalization feature of section 332A (1) apply so as to eliminate their present system of rate groupings and arbitraries on Montreal. This suggested change was drafted by our Law Clerk, and is presented as a substitute for paragraph (*f*).

Hon. Mr. Hayden: Mr. Chairman, has Mr. Smith seen that?

Mr. Smith: Yes, I have seen it. I do not agree with that.

Hon. Mr. Haig: If I were Smith, I would not agree either. I would want to get all I could. I suggest that we ask the minister to come here. Let the parliamentary secretary have that memorandum, with the other, and the minister could tell us what he wants to accomplish.

The Chairman: Does that suggestion meet with the approval of the committee?

Hon. Mr. Kinley: Can we at the moment define the difference between the two? What does Mr. MacNeill's amendment do that this does not do?

Hon. Mr. Hayden: The present (*f*), in my view, goes further than the amendment which Mr. MacNeill has drafted.

The Chairman: Suppose we ask Mr. MacNeill to tell us what his suggested amendment will accomplish in comparison with the present act.

Mr. MACNEILL: This suggested draft, which I do not think anybody agrees with, was simply an attempt to deal with the arbitraries and rate groupings. In the discussion which we had the other day, the railway people said that the thing the Maritimes want to do is to preserve their arbitraries and groupings; and this draft is an attempt at a wording to do that. I do not think the proposal preserves the arbitraries and groupings.

The CHAIRMAN: "This"? You mean . . .?

Mr. MACNEIL: This draft that the Chairman just read. I do not think it does that at all. I think if you want to preserve your groupings and so on you should say so affirmatively, and this does not say so affirmatively at all. What it says is:

> "Nothing in this section shall be construed as requiring the elimination from the rate structure of the existing system of Maritime arbitraries and rate groupings on movements of freight traffic having their points of origin or destination in the 'select territory' as defined in the Maritime Freight Rates Act."

Hon. Mr. HAYDEN: That is just putting a discretion in the board.

Mr. MACNEILL: That is right. All this does is, give the broad discretion.

Hon. Mr. HAYDEN: That is not enough protection for the Maritimes.

Mr. MACNEILL: That is what the Maritimes say.

Hon. Mr. HAYDEN: And I agree.

Hon. Mr. KINLEY: And you think the section as it came down from the House of Commons is better?

Mr. MACNEILL: It is my interpretation that the section which came down from the House of Commons leaves the matter in the hands of the Board of Transport Commissioners to fix these rates; and in doing so they can deal with arbitraries; the Board has a discretion. The only prohibition I see is that they must not apply subsection (1) to whatever they do, or at least they do not need to.

Hon. Mr. HAYDEN: Under (*f*) as it came from the Commons the board can fix rates in relation to Maritime movements from and to any points in Canada, independent of equalization. Well, that is too broad.

Mr. MACNEILL: That is my view. I may be wrong.

Mr. H. E. O'DONNELL, K.C.: May I make one observation with respect to this amendment Mr. MacNeill has prepared? My suggestion, respectfully would be that instead of the words "Maritime arbitraries" we should have it read "arbitraries over Montreal"—definitely identifying the arbitrary which I understand the Maritimes desire particularly to preserve.

Hon. Mr. HAYDEN: Why cannot we be affirmative in anything we say?

Mr. O'DONNELL: I am not proposing any amendment. I am merely trying to indicate—

Hon. Mr. HAIG: I personally like what you have said, Mr. O'Donnell, this morning—very, very much, and I think you have the right frame of mind to put in a proper amendment to do just what you say you thought it was doing, and that is exactly what I thought it was doing.

Mr. O'DONNELL: Well, I would like, Senator, to measure up to your regard for me there, but this is a very difficult situation, and very expert people, like Mr. MacNeill and Mr. Matthews, have tried, and Mr. Evans has had a go at it. But on this suggested amendment, if the word "Maritime" were to be deleted and the words "over Montreal" inserted after the word "arbitraries," I would think that that would protect the Maritimes in so far as their arbitraries over Montreal are concerned and their rate groupings in the Maritime Provinces.

I understood that was what it was suggested they should have, and that the western provinces agreed that that is what they should have. I do admit that the western provinces have not taken exception to (*f*) as it stands; at least, nobody has come forward since that amendment was put in, or at least I do not know that anyone has taken any exception to it so far. So I do not think I need say anything more than I have said. As regards the suggestion made to catch and protect the arbitraries and groupings the Maritime people are interested in, we are entirely with them in their desires in that respect.

Hon. Mr. FARRIS: The board can always change (*a*), can it not?

Mr. O'DONNELL: Oh, yes, generally speaking.

Hon. Mr. FARRIS: The Maritime Freight Rates Act does not affect (*a*) and (*f*)?

Mr. O'DONNELL: No, I don't think it does.

Hon. Mr. FARRIS: The only protection the Maritimes have under (*a*) and (*f*) is an order of the board, subject to change; is that right?

Mr. O'DONNELL: Well, that is a question that I do not—

Hon. Mr. FARRIS: If that is so, then the "taking out" effect of "(*f*)" just leaves that "as is".

Mr. O'DONNELL: The point is, Senator Farris, the Maritimes said, "We want more than merely taking that out; we want something put in that will make it very clear that our arbitraries over Montreal and groupings are not going to be interfered with. What is done west of Montreal is for the rest of the country to stand for; but so far as we in the Maritimes are concerned, we know what we have and we want to hold it."

The CHAIRMAN: And equalization, without something in this bill, would have meant that the regroupings in the Maritimes might have had to disappear.

Mr. O'DONNELL: I think it would be fair to say that if (*f*) were not put in, the only words would be those in the opening of section 4.

The CHAIRMAN: Which does not deal with these arbitraries or rate groups.

Hon. Mr. HAIG: And that is what should be maintained.

The CHAIRMAN: Yes.

Hon. Mr. FARRIS: Does not Mr. O'Donnell's proposal suggest that hereafter they will be frozen?

Mr. O'DONNELL: No, it merely says this, that the Board of Transport Commissioners, in consideration of the Maritimes position, need not necessarily take away their arbitraries or their rate groupings. They have very special rate groupings down there, and they have been in force for many years, and they want to hold those.

Hon. Mr. KINLEY: And only for preferred movements.

Mr. O'DONNELL: Only for preferred movements, yes. But as (*f*) stands, it goes beyond preferred movements, because the rate applicable is a through rate from the Maritimes to the West, and if that is taken out of the play of equalization, then more than the arbitraries east of Montreal is being taken care of, as I understand it.

I do not know whether I can be of any more assistance. I thank you.

The CHAIRMAN: I think, as the matter is left, then, we defer consideration of this matter until the minister appears, and his parliamentary assistant.

Hon. Mr. KINLEY: Can we take the rest of the bill? Can we get through the rest of the bill?

Hon. Mr. HAIG: Has the parliamentary secretary got that suggested amendment that Mr. O'Donnell made?

The CHAIRMAN: Yes.

Hon. Mr. KINLEY: Are there any other contentious sections?

The CHAIRMAN: Honourable senators will recall that when we adjourned last Thursday afternoon we were in the middle of the evidence of Mr. Knowles. Mr. Knowles did not deal with any of the contentious sections of the bill, I think. Would the committee like to hear Mr. Knowles on the contentious sections?

Hon. Mr. FARRIS: I wanted to ask him some questions on it.

The CHAIRMAN: Yes. You had to leave early the other day and you wanted to ask Mr. Knowles some questions.

Hon. Mr. FARRIS: I have just three or four questions. I am looking at the Turgeon Report at the bottom of page 100 and the top of page 101. This is in regard to the one and one-third: "The influence of any transcontinental rate from the East to the British Columbia Coast should be carried back in the rates to the intermediate provinces (including points in British Columbia east of the coast) on a basis not more than one-third greater than the transcontinental rate to the sea coast." Shopping there, do you know whether that was discussed before the Commission?

Mr. KNOWLES: Well, we had considerable evidence before the Commission and we also had arguments from counsel.

Hon. Mr. FARRIS: As to the one and one-third rate?

Mr. KNOWLES: On the question of the disparity between the Vancouver rate and the Calgary and Edmonton rate.

Hon. Mr. FARRIS: Yes, I know that, but my question is that this one and one-third was never dealt with specifically.

Mr. KNOWLES: Well, there was no more discussion on that than there was on any other decisions of the Commission, which are practically all compromises, but Mr. Frawley for the province of Alberta did suggest that he was not asking for the flat Vancouver rate but that he would accept something a little higher. I remember him doing that.

Hon. Mr. FARRIS: Then, let us go on: "This is a logical and simple solution to the matter, one that is readily calculated and applied; it recognizes the influence on Alberta of intercoastal competition, but at the same time does not lead to the extreme conclusion that Alberta should have sea coast rates." Then this: "It should also have a restraining influence on the railways in lowering rates to meet sea coast competition, because they will know that they can only obtain rates at intermediate points not more than one-third above the rate to the sea coast." Is there any tendency by the railways to reduce competitive rates lower than they have been? Why should you need a provision of this kind to check railways from making their competitive rates too low?

Mr. KNOWLES: I must say that when I was Freight Traffic Manager for the Canadian National Railway System I did have difficulties with Regional Traffic Managers wanting to meet competition on a basis which I thought was lower than necessary. They had the authority to make rates in their own regions, and I thought some of those rates were too low.

Hon. Mr. FARRIS: That is really an opinion as to how much is necessary in order to meet competition.

Mr. KNOWLES: Well, I had to protect the revenues of the Canadian National System with regard to freight rates, and I had to keep them as reasonably high as I could despite competition of all kinds.

Hon. Mr. FARRIS: I suggest to you that the real danger is the opposite—that is that the restraining influence may be prohibitive, as Mr. Evans has already said, I think.

Mr. KNOWLES: Speaking from forty-five years experience I do not think any rate will be made prohibitive to the coast.

Hon. Mr. FARRIS: But the fact they have got to haul on these rates on the Prairies will prevent the railway companies from putting in the competitive rate—what do you call it?

Mr. KNOWLES: The transcontinental competitive rate.

Hon. Mr. FARRIS: Yes.

Mr. KNOWLES: I will answer you in this way. If it prevents the railways from putting in as we did in 1933 a rate of 50 cents on a hundred pounds on timber from the coast to Montreal, I am all in favour of it. I never heard the last of that rate. It was too low.

Hon. Mr. FARRIS: That may be an argument but it is not an answer to the question. The question I asked was: is there not a danger that this provision will induce the railways to do just what Mr. Evans said they would do, and that is not to put in these competitive transcontinental rates?

Mr. KNOWLES: I think that statement of Mr. Evans is too general, sir. I think there are one or two rates that will have to be adjusted upwards because, in my opinion, they are too low. As a matter of fact, one or two of those rates could not be obtained today via the water lines because there are no water lines operating into Vancouver today from the east.

Hon. Mr. FARRIS: What would be the effect of an amendment to section 332 (b) to add on the end "unless the Board for good cause otherwise ordered"?

Mr. KNOWLES: I think they have that power now, sir, and it just puts the situation back to where it was before, or leaves it where it is now.

Hon. Mr. FARRIS: You are not suggesting that in the present bill the Board can change that one and one-third?

Mr. KNOWLES: No, I think that will be mandatory.

Hon. Mr. FARRIS: I am asking you what would be the effect if you added "unless the Board for good cause otherwise ordered"?

Mr. KNOWLES: I do not understand the effect of that suggestion, senator.

Hon. Mr. FARRIS: Well, let us take subsection (3): ". . .for which the competitive toll is named, shall not exceed by more than one-third the competitive toll so named between such point of destination and the point of origin in eastern or western territory, as the case may be. . .unless the Board for good cause otherwise ordered. . ."

Mr. KNOWLES: You are just destroying the effect of the one and one-third rule by putting that in.

Hon. Mr. FARRIS: Why? Is it destructive to allow the Board for good cause to modify it?

Mr. KNOWLES: Everyone would think they had a good cause and that the rule should be modified.

Hon. Mr. FARRIS: Everybody might, but that would not be the Board.

Mr. KNOWLES: I am afraid that you are getting me into a legal tangle.

Hon. Mr. FARRIS: That is not a legal tangle. It is a simple problem of the administration of this Act by a Board which is supposed to be competent to do it.

Mr. KNOWLES: I do not think that, in view of the recommendation of the Royal Commission, the Board should be allowed any discretion with regard to this one and one-third rule.

Hon. Mr. FARRIS: You think the Royal Commission, looking at the thing in the abstract, should have more judgment of it than the Board dealing with specific cases over the years?

Mr. KNOWLES: You had a very competent Royal Commission, and I do not think that they did not know what they were doing when they suggested that rule.

Hon. Mr. REID: In the event that the Act goes through and this section carries as it is, and in the event of the railways not giving Vancouver and New Westminster the transcontinental rate, what will the effect be on rates in British Columbia and Alberta and the Prairie Provinces? Will they go up or down? I ask that because it has been maintained that if they are assessed the one and one-third rate, the rates will be increased on the Prairies. We have been informed that if the railways do not put in the transcontinental rates that the freights will increase not only to Vancouver but to the Prairie points as well. I have it all worked out here. I am not going to read the figures to the committee at the moment, but what have you to say to that? That is the information given to us by counsel. I have all the increases here that will take place if the transcontinental rate is done away with. The Prairies have been allowed to believe that everything is fine and if this goes through they are going to get a reduction; but our information is the other way, that if this goes into effect the C.N. and C.P. will say, "We cannot carry the transcontinental competitive rates as at present and therefore we are going back to the regular rates". If they do the British Columbia rates and Prairie rates will go up and not down.

Mr. KNOWLES: Senator, I presume you have reference to Mr. Evans' statement somewhere in the record here that the rate on canned goods under what you have just mentioned will go up by $1.29 per one hundred pounds. That is an 82 per cent increase. I doubt that very much.

Hon. Mr. HAIG: Would there not be some increase?

Mr. KNOWLES: I beg your pardon?

Hon. Mr. HAIG: I think there will be an increase. It seems to me a matter of common sense, Mr. Knowles, that if this section goes into effect and if the Canadian National wants to give Vancouver the rate that it is getting now, the rates to Alberta and Western Saskatchewan also will have to be lowered, and therefore the railway will lose money. So the Vancouver rate would have to be raised, would it not, to prevent the railway from losing money? Would that not be the railway's position, and would the Board not see it the same way?

Mr. KNOWLES: I think there would be some upward adjustment on a few of the transcontinental rates that exist now, because they are too low today. In fact, no transcontinental rates can be justified today on the basis of water competition. The competition is not there, because the charterers cannot get boats, so the rates are being made today to meet potential water competition, and American and British competition.

Hon. Mr. HAIG: Then Senator Reid and Senator Farris are right, that if this is passed the transcontinental rates will have to go up.

Hon. Mr. REID: There are two rates now to Vancouver, the transcontinental competitive rate and the class rate. The class rate does not apply at present, because the transcontinental competitive rate applies, and if the railways do away with the lower rate we believe there will be not only an increase in the rates to British Columbia but an increase in the rates in Alberta and the other Prairie provinces.

The CHAIRMAN: In other words, Senator Reid, your point is that at present the transcontinental competitive rate on, say, canned goods from Montreal to Vancouver is much less than the class rate on the same goods from Montreal to Calgary.

Hon. Mr. REID: Yes.

The CHAIRMAN: And the class rate from Vancouver back to Calgary added to the transcontinental competitive rate is less than the class rate from Montreal.

Hon. Mr. REID: Exactly.

The CHAIRMAN: So that if the transcontinetnal rate were abolished and the class rate applied, the new rate to Calgary would be higher than the present rate?

Hon. Mr. REID: Yes, that is our feeling.

Mr. KNOWLES: That is quite possible, where you have today a rate to Vancouver so low that you can ship goods back to Calgary and Edmonton, say, at a rate lower than the normal rate from Montreal to those places. But that is the situation with respect to only a few rates.

Hon. Mr. REID: Our fear is that the railways will do something we do not like in order to make up their loss of revenue. They have got to have revenue, and if they lower the rates to the three Prairie provinces they will have to make up the revenue somewhere.

Mr. KNOWLES: They might make it up in the same way as they have with respect to the apples. They have just given a reduction of 23 cents a box on all the apples shipped to eastern Canada from the Okanagan, but nobody has asked where the money is coming from to meet that reduction. Rates are changing all the time, and if they go down continuously the railways eventually will have to ask for a general percentage increase on all rates.

Hon. Mr. REID: There is no compulsion on the railway companies to put a competitive rate in effect?

Mr. KNOWLES: I explained in the other committee, senator, that if the transcontinental competitive commodity rates are cancelled the railways will have to put in normal reasonable commodity rates, lower than the class rates on quite a number of articles. They will not go up to the full class rates, by any means. Also the railways are carrying American goods into Vancouver and participating in the rates on a much lower basis. The rate on canned goods from the Michigan area to Vancouver is $1.64, and from the northern New York area I think it is $1.80. I cannot see any railway going above that.

Hon. Mr. REID: We have contended that freight rates hindered the building up of the western provinces, particularly British Columbia. Cities in the western United States have been built up because of the low freight rates that they were able to get. On many goods, for example, I understand that the rate to Los Angeles would apply to, say, Salt Lake City, and other interior cities. In the making of our freight rate structure was any thought given to the idea of so fixing rates as to help develop the West?

Mr. KNOWLES: Senator Reid, for twenty years or so the people in Salt Lake City, Spokane and other cities paid rates ranging from 7 to 25 per cent higher than people in the coast cities paid. That was done on order of the Interstate Commerce Commission, and it was only within recent years that the order was wiped out and the coast rates made applicable to intermediate points. The result is that from northern New York to Seattle the rate on canned goods is $1.80. I think it is true that the rates were kept up to some extent, because they applied to the intermediate points. Alberta referred to the fact that in the western States rates apply flatly to the intermediate points. Alberta did not ask the Royal Commission to do the same, but said "Give us something a little better and we will go along with you." What I am afraid

of is that if you take it out of the one-and-one-third rule you will be right back to where you started, with $1.57 on canned goods to Vancouver, and $3.23 reduced to $2.97 on the combination from Vancouver to Edmonton. I came to the conclusion five years ago, when I was Freight Traffic Manager of the Canadian National, that we could not stomach that any longer, and I was quite prepared, in 1948, to make an adjustment in that situation, and I told the Canadian Pacific so. I do not think we want to get back into that position, because then the present Freight Traffic Manager of the Canadian National and the Freight Traffic Manager of the Canadian Pacific would be faced with the same complaints, and at the next session Alberta would probably come to parliament and ask for relief by parliamentary action rather than on the recommendation of the Royal Commission.

Hon. Mr. REID: In settling the western territory why were we in British Columbia discriminated against? Only a very narrow section of our province gets the benefit of the transcontinental rate—about 40 miles from Vancouver to a point called Mission—and now it is proposed to leave out the Okanagan, which ships $20 million of fruit and vegetables every year.

Mr. KNOWLES: As explained in the report, there are no interior waterways in British Columbia to compel the railways to apply the coast rates backward. But under this bill the interior points east of Mission will get the benefit of the one-and-one-third rule instead of paying the full local rates, so it would give you quite a material benefit in the interior.

Hon. Mr. KINLEY: Does the transcontinental rate apply to Prince Rupert?

Mr. KNOWLES: The transcontinental rate also applies to Prince Rupert, but a few miles east of Prince Rupert there is nothing but the local rates.

Hon. Mr. REID: You say the one-and-one-third rate would be an advantage over the present rate for the interior?

Mr. KNOWLES: I should think so, yes.

Hon. Mr. HAIG: When you put in the provision of one and one-third or one and one-half, how does that coincide with the equalization provision of the bill?

Mr. KNOWLES: I think it is a step in the direction of equalization, when you reduce the rate. You have, for instance, a rate of $1.57 to Vancouver and a rate of $2.97 to Calgary; if you reduce the Calgary rate to $2.09, you are working in the direction of equalization with the Vancouver rate.

The CHAIRMAN: But surely you can look at it from another point of view. What you are proposing to do with this one and one-third feature is, in effect, to give certain classes of goods the same rate from Montreal to Brandon as from Montreal to the Peace River District, several hundred miles west, without equalization of the rates.

Mr. KNOWLES: That is only with respect to a few of these low rates to Vancouver; when you add one and one-third to them you cut the rate back to Fort William in a few cases.

The CHAIRMAN: But that is not equalization, when you can ship goods a thousand miles further at the same rate!

Mr. KNOWLES: I say if everybody is getting the same rate, that is also equalization.

Hon. Mr. DAVIS: That does not equalize the rate, as far as Winnipeg is concerned, when they pay the same rate as Calgary or Edmonton, on this one and one-third basis.

Mr. KNOWLES: It is one of those conditions, Senator, that arises out of trying to right a great wrong—you are bound to do a little harm somewhere else. I do not know any other answer to it.

Hon. Mr. STAMBAUGH: At least, it does not raise the rate on Winnipeg.

Hon. Mr. HAIG: But it is a contradiction to equalization. We have exempted the Maritime provinces, and there is a historical reason for doing so. I do not think anybody objects to it.

The CHAIRMAN: And we have exempted the competitive rates.

Hon. Mr. HAIG: Yes. For my part, I am positive that the railways will have to raise their transcontinental rates.

Mr. KNOWLES: I agree with you, so far as a very few rates are concerned; there is no justification for those rates today.

Hon. Mr. HAIG: They are low. The result will be that the people who are now enjoying those rates will have to pay a good deal more. If we are to have equalization, it is common sense that you have to equalize over the whole distance. If a man in Montreal can deliver goods in Edmonton for the same price that he can in Winnipeg, surely that is not equalization, but that is what you have in this bill. I can understand Alberta wants the low rates; if I lived there I would want them too.

Hon. Mr. REID: But we don't believe Alberta will have them. If they cut the transcontinental rates, they will raise the rates to Alberta.

Hon. Mr. HAIG: But how would you justified equalization of freight rates on this basis?

Hon. Mr. DAVIS: If you regard the Prairies as a plateau, that is not equalization. If you make the same rate from Brandon to Edmonton, or Brandon to Calgary, that is not equalization on any basis.

Mr. KNOWLES: If it were general, Senator, I would go along with you that this clause, should not be here; but it only applies to a few rates out of several hundred in the tariff.

Hon. Mr. HAIG: But it can be made to apply to anything, under this rule.

Mr. KNOWLES: I would much rather have this rule than the American rule, where the rate on canned goods would probably apply from the coast back to Minneapolis and Chicago.

Hon. Mr. HAIG: We have enough trouble here without looking to the States for theirs.

Mr. KNOWLES: Those were examples given when the Royal Commission was dealing with the question.

Hon. Mr. HAIG: All Canada has asked for an equalization of the freight rates, and the chairman's question is still unanswered. How do you justify giving a special favour to one part of the country, which is not equalization at all?

Mr. KNOWLES: The only answer I can give is to cure a very bitter complaint from Alberta, as the Royal Commission said.

The CHAIRMAN: Mr. Knowles, surely there are a very large number of cases throughout the country where, as a result of a competitive rate, the rates to one point which is further away from the point of origin, are higher than the rates to an intermediate point. The example given to me was of the rate on certain commodities from Montreal to Windsor; which are lower than the rates from Montreal to London, a shorter haul, for the reason that there is water competition at Windsor and not at London.

Mr. KNOWLES: That is quite right, Senator.

The CHAIRMAN: If you are attempting to cure one particular case where there is a higher rate to an intermediate point, does this section not open the door to everybody who suffers from a higher rate to an intermediate point to come in and say they should have the same rate as the further point has?

Mr. KNOWLES: Well, they would have to come to parliament to get it.

The CHAIRMAN: Oh, yes.

Mr. KNOWLES: Because this only applies to transcontinental rates.

The CHAIRMAN: But I am suggesting to you, that if parliament passes section 332B to this bill, it may be faced with all sorts of requests where similar conditions exist.

Mr. KNOWLES: I would not be very much worried if you put the one and one-third rule on all competitive rates; if I were still freight traffic manager on the Canadian National, it would not bother me. I think there has been too much injustice done with competitive rates, which in some cases have been cut 40 per cent, 50 per cent and even 70 per cent, while the intermediate point continues to pay the high rate. That may be right legally, but morally it is wrong.

The CHAIRMAN: Has any other senator any question to ask of Mr. Knowles? There are some sections, Mr. Knowles, that you have not discussed. Have you anything further which you think you might enlighten the committee on?

Mr. KNOWLES: Well, if any senator has any question, I would be very glad to answer it, but I do not think I can comment on any of the other features of the bill. There is one thing only I wish to do, Mr. Chairman, and that is correct a mis-statement that I made when I agreed with a question that the Royal Commission did not deal with the basing arbitrary to Fort William. I had forgotten that the Commission did deal with that subject.

The CHAIRMAN: On what page is that?

Mr. KNOWLES: It is scattered all through the report, but I will quote what the Commission said at the top of 110.

> It is alleged that the method of making one large group (the Montreal-Windsor-Sudbury group) in the East, while refusing to make groups in the West, is a discrimination against the West.

Then on page 112, under conclusions and recommendations, these words appear:

> A suitable rate of tapering for the entire country should be an integral part of a uniform class rate scale.

It does not say so in as many words, but it means the abolition of any other method of making rates.

The CHAIRMAN: You take from that, that the Commission's recommendation would involve the elimination of the Montreal-Windsor-Sudbury triangle?

Mr. KNOWLES: Yes, sir; and they make it plain at the foot of page 126, where they say that one of the things which would indicate that substantial progress towards equalization may be accomplished by the following means:

> (*j*) A provision for tapering rates between Western and Eastern Canada so that they shall hereafter be fairly related to distance, instead of being made as now by what are in reality combinations on Fort William;

Hon. Mr. REID: May I ask a question as to section 18, having to do with the $7 million subsidy? How did they arrive at the $7 million? Secondly, if you look at subsection 4 of section 18, you will note that it reads in part:

> (4) When the cost of maintenance of the trackage on the lines of railway specified in subsection one exceeds in any year the sum of seven million dollars, the payments authorized by subsection one shall be apportioned between the companies according to the amounts expended by each company on the maintenance of its trackage.

My question is, must the cost of maintenance exceed $7,000,000 before they receive any payment?

Mr. KNOWLES: No, sir, I do not understand it that way. I think they get the $7,000,000 provided the maintenance costs $7,000,000. If it is a little less they will get a little less. If it goes over $7,000,000 they only get $7,000,000.

Hon. Mr. REID: If it is $6,000,000 they will get $6,000,000?

Mr. KNOWLES: Yes.

Hon. Mr. REID: Why does it say there, "exceeds", if they are going to pay $7,000,000, no matter what they spend on the trackage, whether it is six or eight millions?

Mr. KNOWLES: Well, Senator, this was not in the royal commission report—that maximum. It said, at the present time it is costing approximately $7,000,000 to maintain these lines. I am inclined to think that the government has put that section in there as a stop-block so that they will not have to pay too much, because the royal commission thought $7,000,000 would just about cover it, and it looks to me as if they have adopted that figure as a maximum, so that it will not get out of hand.

The CHAIRMAN: Are there any more questions to Mr. Knowles? Thank you very much, Mr. Knowles.

I should have said at the opening that Mr. O'Donnell, counsel for the C.N.R., wanted to make a short statement on the general provisions of the bill, and certain features of it. Do you still want to make a statement, Mr. O'Donnell?

Mr. O'DONNELL: Well, Mr. Chairman, it was merely that we wished to have the opportunity to be present to answer any questions which the committee might feel we could assist with. We did not want the committee to feel that we were not interested in this bill, very definitely. When in the other house we simply said we had no objection in principle to the bill, that we had said what we had to say at that point, we did not think we were entitled to any criticism on that, but we have our own definite views, and are always glad to put them forward. Sometimes we agree with the views of our friends, and sometimes we do not. In one respect we did not. We had no objection in principle to the bill, but we thought minor changes should be made. We assisted in drafting some. The record does not show every time we moved. But I want to make it clear that we are ready to assist in any way we can.

Hon. Mr. REID: What is your viewpoint, or would you care to express an opinion on the statement made by Mr. Evans that if this section 332B goes into effect the Canadian Pacific Railway will likely cancel the transcontinental rates or the competitive rates to Vancouver?

Mr. O'DONNELL: Well, our view is on record in the other committee. I think it is fair to say that we do not take as fearful an attitude with respect to this revision as they do. There undoubtedly will be rates that will require adjustment. But competitive rates are being adjusted day in and day out. Transcontinental rates are merely a form of competitive rates. If competition warrants a rate and the railways desire to meet it, they meet it. If competition gets such that there would be no benefit in meeting it, the railways withdraw. We feel there would be no difference in principle, as far as transcontinental rates are concerned, from other competitive rates. I think Mr. Green, one of the members for Vancouver, indicated in the debates on the last day that he had finally reduced the matter to, I think, five rates, which are those that are referred to in the Railway Commission report. Now, those are examples that one might choose in order to point out the problem. Those are the worst; they point the thing out very definitely. The rates in the transcontinental competitive tariff are segregated in a special tariff. There is no difficulty about the particular rates we are talking about. The transcontinental rates are all

in one tariff, and in the tariff, I think, there are about two hundred items, and of those two hundred, mostly the rates to Vancouver are higher than to the intermediate point, but where they are lower than the intermediate point that is where the problem comes. But the attitude of the Canadian National Railway, from a business point of view, is that, rather than have imposed on it the American way of doing things, that is that you carry to all intermediate points for no more than the rate to the coast destination, it is better business to be given an opportunity to obtain a one-third bonus if any particular case warrants it.

Hon. Mr. HAIG: But if the rate was too low you would have to raise your transcontinental rate?

Mr. O'DONNELL: If the rate is too low it is not justified and it should be raised. On the other hand we feel, as far as Vancouver is concerned, they are protected from the water-end aspect, and they are protected by an American railway—the Great Northern—which quotes rates into Vancouver on a transcontinental basis. Some rates may have to be disturbed, some rates may have to be withdrawn. That will depend on the merits of each particular case. But that is a situation which we have day in and day out.

Hon. Mr. HAIG: But it does not agree with the principle of equalization?

Mr. O'DONNELL: That is another matter. The way we looked at it was this. This is a very special case. The problem of Alberta was very special in so far as this particular case they are talking about is concerned, and they can make a case. What the adjustment is, is something else. But our approach as business people is that if we get a bonus of one-third we will be better off than on the American basis of a similar rate to intermediate points as to the coast destination. Our Canadian National would not prefer the American way, but would rather take a chance that the board will give them relief. They may or may not. Our view is that if we got at least one-third we would be better off than if we had to do it for the same rate to intermediate destinations.

The CHAIRMAN: Would you, for the C.N.R., feel any happier if Senator Farris' suggestion were to be incorporated in the bill, giving the Board of Transport Commissioners the power in certain special cases, where it felt it was necessary, to depart from this one and one-third?

Mr. O'DONNELL: Frankly, in so far as I personally am concerned, I think that would not be too distasteful, and it might be helpful.

The CHAIRMAN: There might be certain cases where it might be necessary to establish a very particular rate to Vancouver, the effect of which, if brought back on the one and one-third clause, would be so disastrous to your revenues that it would be prejudicial to the company?

Mr. O'DONNELL: I would feel that the board could be trusted with sufficient watchfulness of the revenues of the railroads to see that that disaster did not follow. On the other hand, the proposal as it stands is better than the American way of doing business, in our view, and that is why I differ from our friends of the C.P.R.

The CHAIRMAN: Is it not true that the Interstate Commerce Commission has power, if it wishes to, and if the railroads apply, to institute a higher rate to intermediate points?

Mr. O'DONNELL: That is right. Under section 4, as it is referred to, relief may be granted, but my understanding is that only in one instance has the Interstate Commerce Commission granted relief, and that is with respect to sulphur from Texas.

The CHAIRMAN: There might be isolated instances there, might there not?

Mr. O'DONNELL: But that is the only case, as I understand it. I do not know if I can say anything more that will help.

Hon. Mr. REID: I suppose both railways work together in that what one does the other one does?

Mr. O'DONNELL: One competitor must follow another competitor if he wishes to share in the business.

The CHAIRMAN: Is that all you have to say at this time?

Mr. O'DONNELL: Yes, unless I can help in some other way.

The CHAIRMAN: Is it agreeable to the committee that we adjourn now until the Minister finds it convenient to appear, which I understand will be either at 8 o'clock this evening or at 10 o'clock tomorrow morning.

Some Hon. SENATORS: Agreed.

The committee adjourned to the call of the Chair.