

CHAPTER IV

EQUALIZATION

During the course of the inquiry Section 314 of the Railway Act was put forward as the "Equalization Section". It is necessary at the outset of these remarks on this subject to point out that the wording of the Section does not appear to justify the broad interpretation given to it at the hearings.

Section 314 of the Railway Act provides:

"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.

"2. No reduction or advance in any such tolls shall be made, either directly or indirectly, in favour of or against any particular person or company travelling upon or using the railway.

"3. The tolls for carload quantities or longer distances, may be proportionately less than the tolls for less than carload quantities, or shorter distances, if such tolls are, under substantially similar circumstances, charged equally to all persons.

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

"5. The Board shall not approve or allow any toll, which for the like description of goods, or for passengers carried under substantially similar circumstances and conditions in the same direction over the same line or route is greater for a shorter than for the longer distance, within which such shorter distance is included, unless the Board is satisfied, that, owing to competition, it is expedient to allow such toll.

"6. The Board may declare that any places are competitive points within the meaning of this Act."

It will be observed that the equalization provided for in ss. 1 of this Section is confined to traffic "passing over the same line or route". Traffic passing over different lines or routes is not dealt with.

As to ss. 4 of Section 314 it has been held that the equality of treatment called for is between localities on the same line of railway. The fact that one railway company charges a higher toll than another railway company in the same area does not constitute discrimination: *Canada West Coal Company v. C.P.R.* 27 C.R.C. 113.

The Board has held that different rates in different parts of the country do not constitute discrimination: *Consumers Glass v. C.F.A.* 34 C.R.C. 56; and that different rates on different parts of the same railway do not necessarily constitute discrimination: *Dominion Sugar v. C.P.R.* 34 C.R.C. 71; and that differences in rates over the same line but in opposite directions is not necessarily discrimination: *Consumers Glass Co. v. C.F.A.* 38 C.R.C. 77.

Section 314(5) which deals with the long and short haul also restricts its provisions to traffic travelling in the same direction over the same line or route.

Section 329(3) of the Act provides:

"The special freight tariffs shall specify the toll or tolls, lower than in the standard freight tariff, to be charged by the company for any particular commodity or commodities, or for each or any class or classes of the freight classification, or to or from a certain point or points on the railway; and greater tolls shall not be charged for a shorter than for a longer distance over the same line in the same direction, if such shorter distance is included in the longer."

It will be noted that the language in this Section is even more limited in scope, namely "over the same line in the same direction", not "over the same line or route" as in Section 314(5).

The requirement of equality is also limited in Section 314(1) by the recognition of the fact that dissimilar circumstances or conditions may justify a departure from the rule.

In the argument before the Commission much stress was laid upon the force and meaning of the words "under substantially similar circumstances and conditions". It seemed to be assumed that, if these words were removed from Section 314 the objective of all-round equalization would be attained.

This assumption is unfounded. The Section is limited in its application to traffic moving, in the one case (subsection 1) over the same line or route, and in the other case (subsection 5) *in the same direction* over the same line or route; but even within the limits of these lines or routes inequality may exist if conditions and circumstances are dissimilar. The words have no application to traffic on different lines or routes and, in some cases, in different directions over the same line or route.

Reference might also be made to Section 319, which reads as follows:

"Whenever it is shown that any railway company charges one person, company, or class of persons, or the persons in any district, lower tolls for the same or similar goods, or lower tolls for the same or similar services, than it charges to other persons, companies, or classes of persons or to the persons in another district, or makes any difference in treatment in respect of such companies, or persons, the burden of proving that such lower toll or difference in treatment does not amount to an undue preference or an unjust discrimination, shall lie on the company."

By this Section and according to the interpretation given to it by the Board, Parliament recognizes that even on the same line of the same company inequality of treatment may exist provided it does not result in undue preference or unjust discrimination: *Winnipeg Board of Trade v. C.P.R.* 36 C.R.C. 100.

Reference may also be made to Section 316 (3a and c), and to Section 325(5). But neither of these sections has been interpreted as requiring equality of treatment as between shippers or localities in the absence of some evidence of unjust discrimination or undue preference. There is therefore no specific provision in the Railway Act calling for complete equalization of rates throughout Canada.

THE RELEVANT FACTS

The facts show that for about two years (1881-1883) the rates of the Government Railways in Manitoba (which subsequently became part of the Canadian Pacific Railway system) were approximately the same as the Grand Trunk Railway's "winter" rates in Ontario and Quebec. In 1883 however they were increased by 50% or thereabouts. This was said to be justified on several grounds: higher costs of supplies and differences in density of traffic and in terrain increased operating costs, and resulted in these higher rates in the Prairies and in the imposition of the "Mountain Differential" in the Rockies. This differential was finally removed on July 1, 1949. Differences in competitive conditions in the East and the West also led to lower rates in the first region. The Board of Transport Commissioners said in 1914 in the Western Rates Case that water competition necessitated lower rates in Eastern Canada, and again in 1948 in the 21% Case that "Lower rates in Eastern Canada are compelled by water competition, combination of water and motor truck competition, as well as rates established by the United States lines, particularly as far as export and import traffic is concerned".

In 1920 the Governor in Council in P.C. 2434 in a reference back to the Board referred to the "very great desirability of bringing about with the least possible delay equalization of Eastern and Western rates" and mentioned the probability of materially changed conditions "tending more and more to make equalization practicable".

In 1925 by P.C. 886 the Governor in Council directed a general freight rate investigation and stated that "the policy of equalization of freight rates should be recognized to the fullest possible extent as being the only means of dealing equitably with all parts of Canada".

The matter was discussed in the recent judgment of the Board in the 21% Case and the Board pointed out that there are instances where rates in the West are lower than in the East and in other cases the reverse is true, but they said: "The general rate level as a whole in Ontario-Quebec is below that in the Prairies." The Board, however, justified this on the grounds set out above.

It has been demonstrated that over the years there has been a gradual improvement in the situation and the railways argue that now, taking into account the Crowsnest rates on grain, there is little or no difference in the general over-all level of rates between the West and the East.

Nevertheless the fact remains that the alleged inequalities in rates have been a subject of contention for many years and in April, 1948, the Governor in Council by P.C. 1487 directed the Board to conduct a freight rate investigation "with a view to the establishment of a fair and reasonable rates structure, which will, under substantially similar circumstances and conditions, be equal in its application to all persons and localities..."

THE ARGUMENT OF THE PROVINCES

British Columbia, Alberta and Manitoba urged that equalization be effected, and insisted that fresh legislation is required and that, based on past experience, it will never be achieved except by legislation. They argued that P.C. 1487 leaves the Board in the same position as in the case of the Order in Council of 1925, and as it was in on March 30, 1948, when it delivered the Judgment in the 21% Case. Saskatchewan stated that although equalization was desirable it may be impossible to achieve.

The Maritime Provinces said that they did not "subscribe to or support so-called equalization of freight rates" and stated "rate equalization is impossible of achievement". Accordingly they opposed an amendment to the Maritime Freight Rates Act submitted by the Canadian Pacific Railway Company as being essential to the bringing into effect of an equalization plan.

THE ATTITUDE OF THE RAILWAYS

In the submission to the Commission by the Canadian National Railways appears the following statement:

"The Canadian National concedes the desirability of equalization of class rates, distributing rates (including town tariff or Schedule 'A') and distance commodity rates provided such equalization is effected without detriment to its revenue position.

"The Canadian National considers it impracticable to equalize special commodity rates or competitive rates."

The Canadian Pacific Railway Company in its submission dealt with the matter at considerable length but its conclusions on the subject may be briefly stated as follows:

1. Studies in connection with equalization proposals are not complete;

2. The extent to which they may be carried out must depend upon the study of data now being obtained by the Board of Transport Commissioners in connection with its Waybill Study;
3. With these qualifications in mind, the railways propose equalization of the standard class rates, distributing class rates and the commodity mileage scales as between Eastern and Western Canada;
4. The railways do not propose and do not believe it practicable or even desirable to attempt equalization of special commodity rates or competitive rates; and
5. Certain difficulties arise in an equalization program:
 - (a) The Maritime Freight Rates Act will require amendment;
 - (b) Unless the so-called Crowsnest Pass Grain Rates are allowed to find their proper level equalization will not be true equalization; and
 - (c) The assumed mileages between Fort William and Winnipeg and between Vancouver and Glacier, B.C., must be eliminated from the rate structure.

CONCLUSIONS AND RECOMMENDATIONS

1. It would appear, from the foregoing and having regard particularly to the terms of Order in Council No. P.C. 1487, that the broad general principle of equalization throughout the country is now accepted. It must be noted, however, that the Order in Council provides that this equalization shall be subject to such special statutory provisions as affect freight rates.
2. It is difficult to conceive of an unqualified statutory rule for equalization. Exceptions to equality must necessarily be permitted in the following cases and other cases which may come to the attention of the Board as the investigation proceeds:
 - (a) All international rates;
 - (b) Rates on export and import traffic through Canadian ports, where in practice such tolls bear a fixed and longstanding relationship with rates on similar freight through ports in the United States;
 - (c) Competitive rates under the conditions discussed elsewhere in this report;
 - (d) Agreed charges authorized by the Board under The Transport Act;
 - (e) Rates over the White Pass and Yukon route; and
 - (f) Rates on railway lines not embraced in the Canadian Pacific or Canadian National systems and which may not be able to operate on rate levels in force elsewhere.
3. The words "under substantially similar circumstances and conditions" contained in Section 314 of the Railway Act cannot properly be eliminated because this section is essentially an anti-discrimination section.
4. In Section 2 of the Interstate Commerce Act of the United States, the words "under substantially similar circumstances and conditions" are used in defining and prohibiting unjust discrimination. However, the Interstate Commerce Commission is in the process of equalizing class rates throughout a large portion of the United States.
5. 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.

6. The Canadian railways have agreed that within limits equalization is now desirable.
7. Since the Canadian Pacific Railway Company has intimated that, in its view, amendments will be required to Section 3(2) of the Maritime Freight Rates Act and to Section 325 of the Railway Act dealing with Crowsnest rates, it must be pointed out here that both of these subjects are dealt with at length elsewhere in this report.
8. The Board has requested the railways to submit to them the railways' proposals for equalization of freight rates throughout Canada subject to statutory prohibitions contained in Section 325 of the Railway Act and in the Maritime Freight Rates Act.
9. Consideration of the various complaints and suggestions referred to in the immediately preceding chapter and the recommendations made with respect thereto indicate that substantial progress towards the goal of equalization may be accomplished by the following means:
 - (a) The abolition of the present standard maximum mileage tariffs;
 - (b) The establishment of one uniform equalized class rate scale throughout Canada applicable on each of the two major railway systems, expressed in mileage distances or in specific rates between all specified points on each railway; the tolls in such tariffs to be specified in blocks or groups by mileage or otherwise, and such blocks or groups to include relatively greater distances for the longer than for the shorter hauls, the level of this uniform equalized scale to be fixed by the Board;
 - (c) The establishment of uniform equalized commodity mileage scales throughout Canada applicable on each of the two major railway systems; the tolls in such tariffs to be expressed in blocks or groups and to include relatively greater distances for the longer than for the shorter hauls, the level of these scales also to be fixed by the Board;
 - (d) The revision of the present commodity tariffs of tolls between specified points on each of the two major railway systems, which the Board should endeavour to have uniform throughout Canada, as far as may be possible, having regard to all proper interests;
 - (e) The publication of special freight tariffs of tolls for accessorial and special services to be performed by the railways and not provided for by the aforesaid class or commodity tariffs, which special tolls shall, so far as possible, be uniform throughout Canada;
 - (f) The elimination of the so-called "terminal" class rates in Western Canada;
 - (g) The establishment of larger mileage groups for longer distances so that main producing points in defined areas may be in the same rate group;
 - (h) The establishment of uniform percentage relationships for class rates applicable both in Eastern and Western Canada;
 - (i) The averaging of the different "taper" of Western and Eastern Canadian class rates;
 - (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;

- (k) The application of maxima to percentage increases on long haul rates in future general revenue cases so as to avoid increasing such rates unduly; and
 - (l) The establishment of the Eastern carload mixing rule in western Canada and between eastern and western Canada.
10. The foregoing items point to a new departure in class rates and commodity mileage rates, and eventually, in so far as practicable, in special or specific rates for the Canadian portion of the North American Continent. It appears that Canada has reached a stage in its development when former methods of making regional rates must give way to a uniform rate structure that, as far as may be possible, will treat all citizens, localities, districts and regions alike.
 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.

It appears desirable that a beginning should be made with the uniform scales. Other adjustments may properly follow as time and conditions demonstrate to what extent the many specific rates now existing can be made more uniform than they are today.

12. Changes should be made in the "Traffic, Tolls and Tariffs" sections of the Railway Act in order to empower the Board to effect and maintain the uniformity in rates throughout Canada herein recommended.

CHAPTER V

OTHER MATTERS OF NATIONAL OR LOCAL CONCERN

1. PUBLIC OWNERSHIP OF RAILWAYS

The Province of Saskatchewan suggested that a study should be made to determine whether all railways in Canada should be under public ownership. Counsel for the Province made it clear that they did not commit themselves one way or the other and were not recommending public ownership. They wished to be understood as merely suggesting that public ownership might "be the solution to Canada's transportation problem" and that therefore it deserved study.

The Saskatchewan Federated Co-operative Limited stated that if the railways will not avoid duplication and reduce expenses or pool their services, there should be amalgamation.

The Province of Manitoba said that it was against amalgamation of the two railways and that the Canadian Pacific Railway Company should continue as a privately owned system, and that it was better to have two competing systems, one privately owned and one government owned.

The Government of Prince Edward Island submitted an extensive brief and argument on the subject and their views may be summarized as follows:

- (a) They do not believe in state control for the mere sake of state control, but history shows that the movement has been from private to public ownership rather than from public back to private ownership;
- (b) The best reason for nationalization is that the present system does not work and that no system tried in Canada has ever worked;
- (c) Lengthy reference is made to the unification proposals of Sir Edward Beatty in the 30's and to the Canadian Pacific Railway's statements before this Commission that railways will constantly require new capital;
- (d) This new capital must come either from private investors or from the Government;
- (e) Private capital will probably not be obtainable unless there is reasonable assurance of a fair return to shareholders and this means higher freight rates;
- (f) The transportation costs of Canada are paid by the people of Canada of all trades, professions, or other occupations in the form of rates or of taxes, and it does not matter from which pocket such costs come;
- (g) There is danger of the Railways pricing themselves out of business and also of a heavy burden on marginal producers and of interference with the productive economy of the country; and
- (h) Under nationalization if freight rates cannot be raised a deficit will result which will be paid by the people of Canada. Such deficit will be paid through taxes by the people who are best able to pay it.

The Canadian Pacific Railway Company in its submission stated: "Canadian Pacific submits that no useful purpose would be served through a study of unification of all railways under public ownership".

CONCLUSIONS

This question of railway amalgamation, either under public or private ownership, has been considered before in this country. It was indeed a subject

of wide public discussion all through the 1930's. In 1932, at a time of great national and world-wide depression, when the need of attaining a maximum of economy and the more effective use of the railways of Canada was studied by a Commission under the Chairmanship of Sir Lyman Duff, the Commissioners unanimously rejected the proposal of unification in the various forms in which it was presented to them: Public ownership, private ownership or a lease in perpetuity or for a long period of the Canadian National Railways to the Canadian Pacific Railway Company. It appeared to the Commissioners that, "to establish a monopoly of such magnitude and importance would place in the hands of those responsible for the administration of the system powers that would, if not properly exercised, prejudice the interests of the Dominion as a whole". On the other hand, the Commissioners expressed the belief that with the development of the country and the growth of its population the management of so large a system as would naturally be brought into being would become unwieldy and necessitate segregation. These reasons against unification advanced in 1932 are even more cogent in the altered economic conditions which exist in Canada today.

The proposal of unification was rejected again by a Special Committee of the Senate in the Session of 1938-39. The report of the Committee declared that it was in the interests of the railways and of business generally that, "the agitation for unification be ended by frank recognition of the fact that unification of the railways is not possible of adoption".

The majority of the provincial representatives and of the representatives of other bodies who appeared before this Commission favoured the continuance of the present system of two large railway organizations, with the necessary corollary that the Canadian Pacific Railway must be allowed to live and to operate as a privately owned railway.

Much assistance, in studying the question of state monopoly of transportation, was derived from the brief on the subject presented to the Commission on behalf of the Government of Prince Edward Island. It is true, as is stated in this brief, that "Canada and the United States alone of all the major countries in the world retain private ownership to any large degree". It is equally true and most interesting to note, for instance, as the brief says, that "In Germany, before the first war, one-third of the total expenditure of the state was provided by the surplus profits of state owned railways". This example and others given tend to show that a state monopoly may prove practical in the countries of Europe, small in size but containing relatively large and compact populations, and in which the jurisdiction over the different agencies of transportation is not divided but is controlled by the one central legislature and government. But it does not follow that the same results would necessarily be realized by the adoption of central state control of railways in the vast countries of North America, where conditions of government, of extent of territory, and (especially in the case of Canada) of the relation of population to territory and to railway mileage are altogether different from those which are found in the United Kingdom and on the European Continent. It may be noted also that in the years before 1914 when (as the Brief says) German railways produced large profits, they did not have the highway competition which exists today.

Moreover, it seems to be of some importance to note that the Order in Council creating this Commission makes no mention, in its enumeration of subjects requiring particular attention, of any report on government ownership of all Railways. On the contrary the enumeration (e.g. 2(e)) seems to assume the continuation of Canada's present system. It must be presumed that, if it had been intended that a matter of this magnitude were to be investigated and reported upon, the Order in Council would have contained a specific direction about it. It is true, of course, that the general language of the Order in Council

might be construed as being broad enough to bring even this vast subject within the range of the Commission. But a proper study of such a subject would have required an expenditure of time and an employment of skill that it has not been considered reasonable to embark upon.

There is, therefore, no reason whatever to recommend either unification, amalgamation or public ownership of all railways in Canada.

2. PROPOSED RAILWAY EXPANSION AND MATTERS INCIDENTAL THERETO

The future of Canada's railways is a subject of much discussion. Before dealing with it, it will be well to state summarily the experience of transportation in the United States since the beginning of the railway system of that country down through recent years where competition, notably highway competition, has rendered conditions harder and harder for the railways. Reference to what has occurred in the United States in matters of national development is usually of interest when probabilities as to the course of events in Canada are being considered; provided account is taken of the dissimilarities as well as the similarities which exist between conditions in the two countries.

The development of railways in the United States took place mainly in the years from 1850 to 1920. In ten-year periods commencing in 1850 the railway mileage increased from 9 thousand to 30, to 53, to 93, to 163, to 193, to 240 and to the peak of 252 thousand miles in 1920. Starting in 1917 more miles were abandoned than were constructed and by 1943 there was 26,000 less mileage than there had been in 1916.

Abandonments began to take place at a substantial annual mileage rate after 1920. For the ten-year period from 1921 to 1930 inclusive about 6,200 miles were abandoned, in the next five-year period 8,270 miles, in the next 8,950 and in the next 6,540. In the three-year period from 1946 to 1948 there were about 1,620 miles abandoned. For the twenty-eight year period from 1921 to 1948 there was an abandonment of over 31,604 miles. In the six years from 1943 to 1948 over 4,000 miles were abandoned and only 290 miles, or an average of less than fifty miles per year, constructed. The dominant causes of abandonment during the years following 1935 are said to have been highway competition, which is estimated to have brought about 50% of the total; exhaustion of natural resources, 21%; re-location of industry, 12%; and cessation of industry, 10%. The remaining 7% is attributed to miscellaneous causes including connections with public improvements and competition from water carriers and pipe lines.

The authority of the Interstate Commerce Commission over proposed railway abandonment is practically exclusive. When prospects indicate continued loss, complete abandonment is nearly always permitted. This frequently turns upon the availability of alternative services, and in some instances abandonments have been approved on condition that the applicant substitute motor carrier service. Cases denied by the Commission have been relatively unimportant, involving only comparatively small mileage. The Commission has usually adopted the principle that lines which impair the ability of a carrier to perform its duties to the public should be discontinued.

It is therefore apparent that railway expansion in the United States has not kept pace with the great increase in population, but has rather fallen back while population has gone ahead, giving way, especially before the advance of the motor truck in practically all territory.

In Canada the situation is somewhat different. There is still room for railway expansion where it is called for by the needs of settlers already established in productive areas or by the necessity of making available new areas possessing

mineral and other natural resources attainable only by railway. It seems to be generally assumed that most, if not all, railway expansion in the foreseeable future will be carried on by the Government of Canada or by the Canadian National Railways which the Government owns. The day of illconceived and therefore excessive construction seems to have gone by, and our people can feel reasonably assured that from now on no railway ventures will be undertaken excepting after thorough investigation of each project and always with due regard to the financial commitments involved.

PEACE RIVER-PACIFIC REGION

In the course of the sittings of the Commission representations were made in respect of various railway enterprises. One of these is a proposed Peace River-Pacific Railway brought forward by the Senator and Member of Parliament for the Cariboo District of British Columbia. During the war there was set up by the House of Commons a committee known as the Committee on Reconstruction and Re-establishment, which submitted a number of proposals to Parliament, most of which have received favourable consideration. The following recommendation, however, in the opinion of those who made it, has not yet received sufficient attention:

"6. That the Peace River country of British Columbia and Alberta be given direct railway connection with the Pacific Coast at the earliest possible moment. This railway connection is essential to the proper economic development of British Columbia and Alberta; without it, Canada as a nation will lose a great part of the value of the coming exploration and development of the northwest portion of Canada, opened up by military air routes and the Alaska Highway."

The concrete submission made is as follows:

"... that an early start be made upon the construction of such railway extensions in the Peace River country of British Columbia and Alberta as will link the settled areas of that region with Northern Alberta Railways at Hines Creek, Alberta, and Dawson Creek, B.C., and with Canadian National Railways at the divisional point of Prince George, B.C."

During the course of the last Session of Parliament a step was taken which appears to be in line with the request of the people of the area for railway facilities; a resolution was adopted providing a subsidy of \$15,000 per mile to aid in the construction of an extension of the Pacific Great Eastern Railway in British Columbia from Quesnel to Prince George on the line of the Canadian National Railway to Prince Rupert, a distance of about 83 miles. The Pacific Great Eastern Railway belongs to the Government of British Columbia. Parliament was told that the extension of the Pacific Great Eastern Railway line to Prince George is expected to open up all Central British Columbia as a contributor of traffic to the northern line of the Canadian National Railways. When this resolution was introduced into the House of Commons by the Minister of Transport a debate ensued in which the matters contained in the submission made to the Commission were fully discussed by the members of the Government and members of Parliament from the region in question. The Commission has since been informed that work on the Pacific Great Eastern Railway extension is well under way. Since these matters are receiving the close attention of the Government and of Parliament no recommendation is necessary at this time.

HUDSON BAY RAILWAY

In the brief presented at Winnipeg by the Premier of Manitoba the following paragraphs are found:

"... our concern is with the provision of transportation facilities in the newer areas in the northern part of Manitoba where present transportation facilities are under-developed, and with the use of this railway for the movement of Canadian products to market and for the bringing in of supplies.

Item 14. With respect to the Hudson Bay Railway it is our submission that in the interests of Western Canada in general and Manitoba in particular, the maximum effort should be made to utilize that railroad to the greatest possible extent, as a means of moving farm products to the markets of the world; as a means of bringing supplies from Europe and elsewhere; and as a means of improving transportation facilities for the rapidly expanding mineral industries of Northern Manitoba.'"

Counsel for the City of Winnipeg and the Winnipeg Chamber of Commerce made the following statement:

"It is submitted that it is a matter of great importance to the economy of Canada that all industries should not be concentrated in the central provinces. This situation has come about to some extent by virtue of the low transcontinental rates which make it possible for industries in eastern Canada to compete on even terms so far as freight rates are concerned with industries in Manitoba.

"In order that this objective may meet with more success than it has in the past, it is our submission that more commodity rates should be established from Churchill, Manitoba, to Winnipeg, on the same or a lower basis to those in effect from Montreal. This seems to us to be reasonable in every way in view of the fact that the mileage from Churchill, Manitoba, to Winnipeg is considerably less than from Montreal to Winnipeg.

"An effort should also be made to have the insurance rates on ocean traffic reduced."

Also at Winnipeg representations were made to the Commission on behalf of Vulcan Iron and Engineering Limited calling for reduced rates on traffic going from Churchill to Winnipeg, in order to increase the use of that port both for outbound and inbound traffic, to reduce the cost of purchases to the western consumer, and hence to increase the flow of traffic and the revenues of the Hudson Bay Railway. The representative of the Company said that they are vitally interested in the Hudson Bay Railway and Port and would prefer to use them if they could secure an adjustment of freight rates.

At Regina representations were made by the Hudson Bay Route Association, which may be summarized as follows:

"That the present freight rate structure applicable to the Hudson Bay Railway is on a level which fails to reflect adequately the shorter distance of Prairie points to tidewater at Churchill and a revision of the rate structure is essential to make the route more attractive to Prairie importers and distributors.

"That the Commission give careful consideration to our request for railway extensions in the North . . .

"That due consideration be given to colonization of the fertile Nelson River area.

"That a Freight Soliciting Agent be appointed for the specific purpose of promoting traffic for the Hudson Bay Route.

"The Association further recommends that a full scale test of the capability of the Hudson Bay Route in the export of prairie grain be inaugurated."

These extensions in the north and west, taken together, involve railway construction of about 1,420 miles, amounting to a continuous route from Churchill to the Pacific Coast with branch lines as feeders. Such a plan of construction would, of course, require large expenditures on railways in regions still sparsely

settled and the development prospects of which would first have to be ascertained. The time may come when the resources of the region will be found to justify large expenditures on railway construction. After appearing before the Commission the Hudson Bay Route Association sent a committee of its members to Ottawa to lay their proposals before the Government, which is therefore fully acquainted with the case presented by the Association.

With regard to the use of the Hudson Bay Route for shipments of grain to Europe and of commodities from Europe to Canada, the past year, 1950, had the best season so far in the history of the Route. The quantity of grain moved through the Port of Churchill during the 1950 season of navigation was 6,767,743 bushels, 1,000,000 bushels more than the quantity handled in any previous year. The commodities imported through Churchill amounted to 3,350 tons, the greatest which the port has recorded since the beginning of its operations. This, of course, is not a large volume, because twenty vessels were engaged in the outward and inward traffic at Churchill in 1950.

Regarding freight rates the equalized uniform rate scale which is recommended in the Chapter on Equalization will undoubtedly be lower than the present rates within Western Canada—especially when it is remembered that the present class rates between Churchill and the Prairies (also British Columbia) are "terminal rates" which are made by means of the so-called "constructive mileage" of 130 miles off the standard mileage rates.

CANADIAN CO-OPERATIVE PROCESSORS LIMITED

Canadian Co-operative Processors Limited complained of incompleted branch lines of both the Canadian Pacific Railway and the Canadian National Railways leading to Swift Current, Saskatchewan. The submission was that as a result of failure to complete the lines, longer hauls and hence higher freight charges resulted in bringing materials to their plant.

THE "FILL-THE-GAP" ASSOCIATION

The "Fill-the-Gap" Association asked for the completion of the railway line of the Canadian Pacific Railway between Valmarie and Mankota, Saskatchewan. The brief stated that great hardships resulted from the non-completion of this line, e.g. delays in mail delivery, difficulties in taking people to hospitals and long freight hauls.

THE RURAL MUNICIPALITY OF COULEE

The rural municipality of Coulee complained that although the Canadian National Railways line from Neidpath to Swift Current, Saskatchewan, was built in 1931, it has not been put in operation, is not now being maintained, and grain and coal are carried between Neidpath and Burnham only upon arrangements with the local agent.

CHIBOUGAMAU LAKE PROJECT

In the year 1948 the Canadian National Railways completed the construction of a line about 40 miles in length from Barraute to Rapide des Cedres in the Abitibi region, Quebec. The representative of the Abitibi Economic Planning Council appeared before the Commission to submit that the Canadian National Railways should continue construction to Chibougamau Lake, through Bachelor Lake, a distance of about 165 miles.

The Commission has since been informed that the Canadian National Railway Company is considering this matter and is awaiting further information to decide whether potential traffic will warrant the building of the extension.

OTHER RAILWAY EXPANSION BEING
UNDERTAKEN OR CONSIDERED

Two projects concerning which no representations were made have come to light recently. Both have to do with development of natural resources in northern areas. One is in Manitoba from Sherridon to Lynn Lake, a distance of 160 miles and is under consideration by the Canadian National Railways. The other, in the Provinces of Quebec and Newfoundland, from Seven Islands on the Lower St. Lawrence to Knob Lake, a distance of approximately 360 miles, is being undertaken by the Quebec North Shore and Labrador Railway Company incorporated in 1947 by Federal Statute. The grading and laying of track is estimated to cost about \$70 million and the rolling stock from \$40 to \$45 million. It is expected that this line will be completed by the fall of 1954. Information shows that the railway receives no federal subsidy. The railway company is owned by Hollinger Consolidated Gold Mines Limited and Hanna Coal and Ore Corporation. The Commission is informed that it will eventually be wholly owned by the Iron Ore Company of Canada.

CONCLUSIONS

Among the representations mentioned in the foregoing paragraphs, request is made for freight rate adjustments which are matters for the consideration of the railways and also of the Board of Transport Commissioners. The Board will no doubt deal with them as part of their task under Order in Council 1487.

As to the matters brought forward by the Canadian Co-operative Processors Limited, the "Fill-the-Gap" Association and the rural municipality of Coulee, these have been subjects of long standing complaints and have been receiving the consideration of the competent authorities for a considerable time.

As to the other projects mentioned there is nothing to be added to the comments above made respecting each of them.

On the general question of the future of Canada's railways there are certain matters which must be borne in mind by all those who are concerned in any manner with the solution of railway problems. The most important of these is the fact that motor truck competition has made it increasingly harder, during the last 25 years, for the railways to maintain their position as carriers who ought to be able to give the public in all parts of Canada reasonably equal treatment in respect to tolls. Truck competition in Central Canada has grown to such a size as to eat into the railways' revenues by capturing a great portion of their most profitable traffic and by making it necessary for them to reduce their rates to what looks like a dangerously low point in order to retain some of it. The problem is a difficult one to handle because truck traffic, in by far its largest form, is a subject which is of provincial and not of federal control, and it is further divided between the private trucks carrying the goods of their owners and the trucks that work for hire. Of these two classes of trucks the former is very much the larger.

The figures set out at the beginning of this section show that about 15,000 miles of railway in the United States were abandoned between 1921 and 1948 because of truck competition. So far this competition has had no appreciable effect in reducing railway mileage in Canada, but the near future will show to what extent the railways can meet competition successfully. This question is dealt with more fully in another part of this report. The present tendency of our population to increase, especially in Ontario, and the accompanying increase in business throughout the country will widen the possibilities of this competition and at the same time intensify it.

Up to the present, line and service abandonments by railways have not been looked upon with favour in Canada. It is time now for all concerned to

re-consider their attitude in this regard. If the American railways had not been allowed to meet by abandonment, sometimes partial and sometimes total, the difficulties created by highway competition, by the cessation or relocation of industry, by the exhaustion of natural resources, etc. they would undoubtedly have been in a much more unfavourable position than they are today. Our railways should be allowed to practise similar economies in cases where operations are shown to have become substantially unnecessary or to be definitely unprofitable, especially, of course, when it is shown that reasonable service can be assured by other agencies.

The survival of Canada's railways, both private and government owned, is of essential importance to the nation. When further transportation facilities become necessary in parts of the country not yet supplied, the task of providing them will generally fall to the railways.

RECOMMENDATIONS

For the various reasons set out above no specific recommendations are required in relation to the aforesaid representations.

3. PASSENGER FARES

Only one complaint was made to the Commission concerning passenger fares. After referring to the elimination of the Mountain Differential in so far as freight rates are concerned, counsel for British Columbia stated "One glaring example of such unfair discrimination remains today in British Columbia and that is in regard to passenger fares. The basic passenger fares in British Columbia are one-half of a cent per mile higher than in the rest of Canada." While British Columbia admitted that passenger traffic as a whole is carried at a loss it stated that nowhere else in Canada do the railways suggest that they apply the principle of cost and value of service in fixing passenger fares. Counsel for the province stated: "If the railways seriously mean that they will accord the same treatment to all parts of Canada they should now prove their good faith by immediately reducing the passenger fares in British Columbia. The total revenue involved cannot be large but the railways will be able to demonstrate that they are to be taken seriously when they say they believe in the equality of rates wherever possible." The official view of the Canadian Pacific Railway was that it would not be willing to place passenger fares in British Columbia on the same basis as the rest of Canada. The Canadian National Railways took the same position.

CONCLUSIONS

It seems to be an anomaly under present conditions that the passenger fares in one part of the country should be different from those which prevail elsewhere. It would, however, appear that the proper procedure for British Columbia to adopt is to make an application to the Board as was done in the Mountain Differential freight rates case.

There is no recommendation to be made on this subject.

4. SEGREGATION OF PASSENGER AND FREIGHT REVENUES AND EXPENSES

The Province of British Columbia urged that the railways should segregate freight and passenger revenue and expense accounts. The Province of Manitoba supported the position taken by British Columbia and stated that passenger revenue losses are not properly chargeable to freight earnings and that the

burden falls on the long haul non-competitive traffic because passenger fares cannot be increased and the revenue must be made up by the railways by additional charges to freight traffic. The Federal Government, it was said, should subsidize the losses on passenger traffic. Manitoba accordingly submitted an amendment to the Railway Act the effect of which is to compel the Board in any application for increase or decrease in tolls to have "due regard to the cost of operating any particular service and without restricting the generality of this paragraph the cost of passenger service". This amendment was supported by the Province of Alberta. The Maritime Board of Trade in its submission stated that it was in favour of the segregation of passenger and freight revenues and expenses and believed it to be in the interest of the railways. Similar representations were made by the Canadian Manufacturers' Association at the Toronto regional hearing.

The main argument of those supporting such segregation may be summarized as follows:

- (a) That the passenger losses are substantial;
- (b) That formerly these were paid by all shippers;
- (c) That, since the railways must make up losses on passenger traffic by additional increases on freight rates, the burden now falls on long haul traffic;
- (d) That the railways are not concerned because they can pass their passenger traffic losses along to freight traffic; and
- (e) That a subsidy to the railways by the Government may be the solution.

In the 21 per cent case decided on March 30, 1948, the question was raised before the Board when Counsel for British Columbia contended that the obligation of maintaining the passenger traffic should not be placed upon the users of the freight services and that the Board should not at any time be put in the position of establishing freight rates which must necessarily be unjust and discriminatory by reason of the inclusion in such rates of some consideration affecting passenger losses. The Board stated that the evidence as to operating results of the passenger services supplied by both the Canadian National and Canadian Pacific railways was not very satisfactory because of the inability of the two railways to furnish the Board with figures showing actual operating expenses apart from freight operation costs. The Board said that only about 38 per cent of the working expenses were separable in the Canadian National Railways' accounts and the balance could only be apportioned upon an arbitrary or statistical basis, and that in the case of the Canadian Pacific Railway only 30 per cent of the expenses were directly separable in that company's accounts, and the remaining 70 per cent could only be apportioned on an arbitrary and theoretical basis.

The Board stated:

"Although the evidence before us is insufficient on which to make specific findings of the actual extent of profits or losses, the passenger service shows consistent deficits except during the heavy movement of passengers and troops during the period of the last war and the year following.

Witnesses for the railways stated that they did not think that Canadian passenger fares could be increased; that such action would produce a reduction rather than an increase in passenger revenue, and referred to the competition of private motor cars, buses and air lines.

So far as I have been able to discover, this question has not been specifically dealt with in any previous decisions of the Board.

It is generally recognized that freight services are relatively more profitable than the passenger services. The rates of both classes of services are subject to regulation under The Railway Act. The freight and passenger services are both essential to the

respondents and to the public in general. The railways are required to furnish both services. They are interrelated. And revenue losses or deficits on the one must necessarily be compensated by earnings on the other if the railway carriers are to continue to operate. I am unable to agree with the submissions made here that we can authorize no increase in freight rates, if such increase, to some degree, be necessary to correct deficiencies in aggregate earnings growing out of the inability of the passenger service to meet its full share of the revenue burden. This is the view taken of the matter by the Interstate Commerce Commission of the U.S.A. in a number of decisions."

The Board then made quotations from three decisions of the Interstate Commerce Commission in 1926, 1937 and 1940 and referred to other Interstate Commerce Commission decisions in 1931 and 1946 to the same effect. The result of the American decisions may be summed up as follows: the freight and passenger services are both essential and both may be subjected to reasonable rates and charges to produce the fair *aggregate return* authorized by the law even though thereby a higher rate of return may be exacted from the one than from the other.

Both the Canadian National and Canadian Pacific railways expressed the view that segregation of revenue and expense accounts between freight and passenger traffic would be of little or no positive value to the railway companies, would be expensive, and would in any event be an arbitrary, statistical or theoretical segregation. Since the passenger services must be provided, the revenues to provide such services must be obtained from freight traffic if the passenger fares do not themselves provide sufficient revenue because it is impossible to increase the passenger fares.

CONCLUSIONS

The freight and passenger services are essential and if the passenger fares cannot be raised to produce sufficient revenues to enable the passenger traffic to pay its own way the freight traffic must bear the burden. The two services are so interrelated that segregation is not practical.

RECOMMENDATIONS

The amendment proposed relating to segregation of revenues and expenses between freight and passenger traffic cannot be recommended.

The Commission does not subscribe to the view that the Federal Government should subsidize passenger traffic.

5. RATES FOR THE CARRIAGE OF MAIL MILITARY PERSONNEL AND MATERIEL, POLICEMEN AND OTHERS TRAVELLING ON HIS MAJESTY'S SERVICE

Under Section 351 of the Railway Act and Section 80 of the Post Office Act the obligation rests on the railways of Canada to place their facilities at the disposal of the Government for the carriage of His Majesty's Mail, naval and military forces, provisions or stores for their use, etc., "on such terms and conditions and under such regulations" as the Governor in Council makes.

The practice prevailing in the past and at the present time is for the railways to apply to the Postmaster General or to the Minister of National Defence for an increase in rates when the railways feel that because of changed conditions the rates are inadequate. Negotiations are then carried on between the railways and the department concerned.

The railways complained that the present situation is unsatisfactory on the following grounds:

1. Their experience with the Post Office Department has been that there are almost interminable delays (extending into years) in obtaining consideration and disposal of their applications. This is borne out by the facts.

2. The Post Office Department admitted that it is not experienced in dealing with the factors governing railway rates.
3. The Board of Transport Commissioners should have jurisdiction over rates for the carriage of mail just as it has over other rates, so that a proper balance can be maintained and freight traffic generally will not be unduly burdened.
4. With respect to the rates for military personnel and materiel, etc., to all intents and purposes these rates are already under the jurisdiction of the Board and they should be placed there by Statute.
5. In no other rate adjustment field is one of the parties to the contract of carriage clothed with authority to finally determine applicable rates.

The railways both proposed that the rates for these services be placed under the jurisdiction of the Board of Transport Commissioners.

The two Departments concerned were notified of the railways' proposals and copies of the submissions made were sent to them.

The Post Office Department objected to the proposals chiefly on what might be termed legal and administrative grounds.

The Department of National Defence indicated that in their view no change was necessary since rates for the carriage of military personnel and materiel have been adjusted along with other rates, and it would be unwise to make a change in the present state of uncertainty in world affairs.

Since the Commission's hearings a new agreement has been concluded between the railways and the Postmaster General, setting new rates for the carriage of mails. Nevertheless the railways say that they are still dissatisfied with the present method of fixing rates and wish to be understood as persisting in their request to have this fixing done by the Board.

CONCLUSIONS AND RECOMMENDATIONS

All Government Departments except the Department of National Defence and the Post Office Department pay rates and fares which are determined by the Board.

Section 351 of the Railway Act enables the authorities to order the railways to carry mail, His Majesty's forces, supplies, etc., "with the whole resources of the Company (i. e. the Railways) if required".

The regulation of the rates in question is essentially a matter of Government policy and it should remain so. It is to be assumed that the responsible minister will from time to time propose adjustments in conformity with the value of the service rendered by the carriers.

6. SUBMISSION OF THE GOVERNMENT OF NEWFOUNDLAND

The Government of Newfoundland divided its submission into two parts, one dealing with transportation generally and the other with freight rates. The latter, however, was withdrawn on the grounds that the Newfoundland Government was taking it up with the Government of Canada and the Board of Transport Commissioners. Therefore only the first part of its submission will be dealt with here.

At the regional hearings the Government asked the Commission to make fifteen recommendations, but during the final argument Counsel for the province advised that three of these had been withdrawn: two dealing with highway communication, on the ground that they were of purely provincial concern,

outside the scope of this inquiry, and the third dealing with air transportation which Counsel advised had been submitted to the Air Transport Board.

The remaining recommendations may be summarized as follows:

1. That a military road be constructed from Gander Airport to the nearest ice-free port on the South Coast—Bay D'Espoir was suggested.
2. That the facilities at North Sydney and Port aux Basques are inadequate to handle the increased tonnage and that alternative outlets be provided for traffic to and from the mainland. The Province recommended Halifax and Saint John as alternatives to North Sydney and Bay d'Espoir, and St. John's and Corner Brook as alternatives to Port aux Basques.
3. That, in the event of these alternative outlets being provided, the all rail route privilege in the Terms of Union be made applicable to traffic moving through such alternative outlets.
4. That adequate facilities be furnished at Louisburg and over the Sydney and Louisburg Railway for the handling of traffic during the winter months, and that the additional transportation costs incidental to the use of Louisburg instead of North Sydney be absorbed in the through rate.
5. That the Newfoundland railway system be modernized to bring it into conformity with the standard system on the mainland with which it is affiliated.
6. Alternatively that improvements be made in the existing railway by reduction of gradients and elimination of curves.
7. That additional equipment in the way of rolling stock, locomotives, freight and passenger cars be provided adequate to meet the service to be performed.
8. That additional refrigeration facilities be provided on the trains and steamships operated by the Railway.
9. That additional coastal steamers be provided by the Railway to remove the dangerous condition of overcrowding which presently exists on the ships engaged in this service.
10. That adequate subsidies commensurate with the service performed be paid to the coastal service on a basis similar to that paid for services in the St. Lawrence River and the Gulf ports.
11. That an investigation be instituted with a view to the improvement of facilities at St. John's, Corner Brook and Port aux Basques.
12. That an inquiry be made into the feasibility of establishing a National Harbour at Bay d'Espoir, including the practicability of establishing a branch line of railway to the harbour to join the main line of railway and also to investigate the advantages or otherwise of establishing Bay d'Espoir as a free port.

CONCLUSIONS

1. With respect to the proposed military road, this is a matter entirely for the Department of National Defence and not a matter of transportation within the reference of this Commission.

2. The proposals Nos. 2, 3, and 4 may all be linked together. The proposals are tantamount to a request that there be more than one all-rail route to Newfoundland. This is not in accordance with the Terms of Union, nor is it a recommendation the Commission should make. If such a privilege were accorded to

Newfoundland it would lead to requests for similar extensions elsewhere. It must be assumed that at the time the Terms of Union were being negotiated careful consideration was given to the points chosen in both Newfoundland and Nova Scotia to be the termini of the all-rail route. It does not appear advisable to recommend that a matter which presumably was gone into with the greatest of care and so recently, should now be disturbed.

3. Proposals Nos. 4, 5, 6 and 7 and part of proposal No. 8 have to do with the provision of adequate facilities for handling traffic, modernization or improvement of the railroad and the acquisition of additional equipment. Obviously as conditions change additional equipment will be required and additional handling facilities at Port aux Basques and North Sydney will be necessary. The authorities will no doubt take into consideration matters of this kind. It may be pointed out that under the provisions of Section 312 of the Railway Act the Railway is obliged to furnish adequate and suitable accommodation for the receiving and loading of all traffic offered for carriage, and the Section contains provisions enabling the Board to order the Company to furnish accommodation having regard to all proper interests. The Commission is advised that the Railway has already provided some additional equipment and has more on order.

4. As to proposal No. 9, dealing with the question of additional coastal steamers, this would seem to be a matter for consideration by the Railway after it has had sufficient time to gather information based on operations, and if there are any complaints these should be made to the Department of Transport. It is not a matter concerning which any recommendation can usefully be made.

5. Proposal No. 10, concerning subsidies is a matter to be taken up with the Canadian Maritime Commission.

6. Proposal No. 11, regarding improved facilities at the ports of St. John's, Corner Brook and Port aux Basques, refers to matters to be taken up with the Department of Transport.

7. As to the establishment of a National Harbour at Bay d'Espoir, provision is made for dealing with this matter under the National Harbours Board Act. No additional legislation is required and it is not a matter concerning which the Commission should make a recommendation.

8. Consideration has been given to the proposal that Bay d'Espoir be made a free customs port; this is to say that goods be allowed to enter such a port for reshipment elsewhere without payment of Canadian customs duties. The establishment of a free port is a matter of national and even international concern, and representations concerning any such establishment should be made to the Canadian Government.

(On January 23, 1951, the Minister of Transport announced that authority had been obtained for the construction of a \$4,500,000 automobile, freight and passenger ferry to provide year-round service between Port aux Basques and North Sydney. The Minister said that he expected this new vessel to be completed in 1952, when it would replace the smaller vessel "Cabot Strait" now in use. The new vessel will be 320 feet in length and 68 feet in width and will have a gross tonnage of 9,500 and a service speed of 15 knots. It will provide space for about 83 vehicles and 300 passengers per trip. It will also be able to carry some 650 tons of cargo as well as a quantity of livestock.)

The Minister also announced that, in connection with the construction of the new vessel, provision had been made in this year's estimates for the commencement of the construction of ferry terminal facilities at Port aux Basques. He also said that the terminal docks on both sides of Cabot Strait and the new vessel would be operated for the Department of Transport by the Canadian National Railways.)

7. NEWFOUNDLAND RATES

Prior to the Union of Newfoundland with Canada on April 1st, 1949, Parliament enacted the Terms of Union.

Section 32 of such Terms reads as follows:

"32(1) 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.

(2) 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.

(3) 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."

The Terms of Union were followed by the Statute Law Amendment (Newfoundland) Act, Section 13 of which reads as follows:

"13(1) Subject to this Section the Maritime Freight Rates Act, Chapter 79 of the Revised Statutes of Canada, 1927, applies mutatis mutandis to all lines of railway in the Island of Newfoundland that are subject to the legislative authority of the Parliament of Canada.

(2) For the purpose of the said Act the lines of railway situated in the Island of Newfoundland including the steamship services between Port aux Basques and North Sydney that are entrusted to the Canadian National Railway Company for management and operation shall from the date of and during the period of such entrustment be deemed to be included in the lines of railway collectively designated as the Eastern lines, the Island of Newfoundland shall be deemed to be included in the expression 'select territory' and through traffic moving by water between Port aux Basques and North Sydney shall be treated as all-rail traffic.

(3) Upon entrustment to Canadian National Railway Company of the lines of railway mentioned in subsection (2), Canadian National Railway Company shall forthwith file with the Board of Transport Commissioners for Canada tariffs of tolls applicable to the carriage of traffic within, to and from the Island of Newfoundland and such tariffs in so far as preferred movements are concerned, shall comply as far as appropriate with the provisions of the said Act.

(4) Notwithstanding the provisions of Sections 330, 331, 334 and 335 of the Railway Act the tariffs initially filed under subsection (3) shall be effective from the date of entrustment."

The Government of Newfoundland at the hearings at St. John's submitted a brief in which it was contended that the Terms of Union with respect to freight rates had not been fully carried out by the Canadian National Railways.

The Associated Newfoundland Industries and the Newfoundland Board of Trade made somewhat similar submissions, and in addition it was stated by the Association that:

"In determining the freight rate structure for Newfoundland, in so far as it affects the Province generally and secondary industry particularly, the Association feels that the matter must be looked at, not merely from the restricted viewpoint as dictated by a consideration of freight rates only, but rather from the over-all picture created by constitutional, geographic, climatic and other considerations."

At the time of argument held in Ottawa some months later, the Government of the Province withdrew its request for any recommendation or determination respecting freight rate matters for the reason that it had decided to deal directly with the Government of Canada and the Board of Transport Commissioners on the subject.

The Anglo-Newfoundland Development Company and the Buchans Mining Company at the hearing at St. John's also withdrew briefs which they had submitted previously.

The Associated Industries and the Newfoundland Board of Trade did not, however, withdraw their request for a determination of the matters submitted by them.

Briefly, the complaints are as follows:

1. That the further east of Quebec and Ontario Maritime industry is situated (as is the case with Newfoundland), it becomes correspondingly more and more difficult for such industry to survive, as the cost of obtaining raw materials from Ontario and Quebec, upon which Maritime industries depend, increases with distance; therefore, unless local industry in Newfoundland generally and St. John's in particular receives special treatment, the death of industries in Newfoundland is a foregone conclusion.

2. That Newfoundland being an island, a natural barrier to trade is created by broken transportation across the Cabot Strait, longer time in transit with winter delays caused by ice in the gulf and heavy snow on the Newfoundland Railway, with additional cost of packaging and extra insurance. These factors, it is contended, greatly increase freight costs.

3. It was alleged that the cost of transportation is prohibitive for distribution of goods in and around Newfoundland as carried on by the Canadian National Railways and its coastal system of steamships.

4. That prior to Union the industrial economy of Newfoundland evolved under its own protective tariff system and this system has now been swept away.

5. That by reason of its many complexities the Newfoundland operation of the Canadian National Railways cannot be dealt with properly as part of the Atlantic Region of that system.

6. That the coastal services and freight rates of such services are not satisfactory. It was suggested that the rates are not competitive with privately-owned freight and passenger craft; the increases made since 1942 are excessive; classification of freight on these steamships should be simplified; certain classes of goods cannot stand present coastal rate levels; there is no provision in coastal rates for redistributed goods, and the five cents per package toll at public wharves should be abolished.

7. That facilities are not adequate for the transportation of all merchandise to the Island with the quickest possible despatch.

8. That the arrangement for distributing carloads of flour and feed on the Island by breaking up carload shipments into small lots of 100 bags is not permanent.

9. That the arbitraries in the rates for transshipping flour to the south coast ports and to Placentia Bay as published by the Canadian National are very low and tend to drive independent vessels out of the traffic.

10. That there is inefficiency in large coastal vessels calling at every small port, and a lack of transfer facilities to more economical smaller vessels for distribution of goods to small ports.

11. That the mixing privilege previously provided on the Island railway whereby all sorts of materials could be mixed at the 5th Class rate has been cancelled.

12. That there is a shortage of warehouses at points in Newfoundland suitably designed for the storage of vegetables and the cold storage of eggs, poultry, etc.

13. That the tourist industry has not been developed fully.

14. That the additional charge of 50 cents per cask of fish which is made by the Canadian National steamship service when vessels call for fish at ports other than their regular port of call is unreasonable.

15. That there is discrimination in rates on fish via vessels from Newfoundland to Halifax and/or New York when transshipped at those points for Central and South America. (This latter allegation is based on the fact that on movements of fish by rail from points on the mainland to Saint John and Halifax for export reduced rates are given.)

16. That the basis of the rate structure is unconstitutional and does not conform to that of the mainland. Numerous examples were submitted on distance comparisons, which, it was said, confirm that many rates are excessive; that there was a very small decrease in some through rates after Union and that some Newfoundland rates were 28% above Maritime levels (this having reference to the charging of standard mileage rates on the Island rather than "town tariff" rates.)

The Associated Newfoundland Industries suggested the following remedies:

1. "Secondary industry must be fostered and maintained if calamitous repercussions to the economy of Newfoundland are to be avoided."
2. "Improvements must be made in existing railway and port facilities."
3. "Newfoundland Railway and coastal operations should become independent of the Atlantic Region and come under the direct supervision of Montreal."
4. "Readjustment of local rates for Railway and Coastal Services should be adjusted on the recommendation of permanent Advisory Committee to the Railway Management."
5. "A new rate structure should be made applicable immediately to Newfoundland, calculated to ensure:
 - (a) Special rates on raw materials moving from the mainland for processing in Newfoundland, so that the laid-down cost to manufacturers in Newfoundland will be equalized to the cost to manufacturers elsewhere in the Dominion.
 - (b) Special rates within Newfoundland providing economic distribution within and throughout the Island.
 - (c) Special rates to Newfoundland manufacturers to create equality of opportunity in competing for Dominion-wide markets.
 - (d) In general, the rates for Newfoundland to be on such a basis as will facilitate marketing in the Maritime Provinces to the extent necessary to offset the geographic and economic disadvantages arising out of our insular position, and as the most easterly Province of Canada, thus providing Newfoundland with a freight rate structure truly competitive with that applying throughout the Maritimes."
6. "The regulation of freight rates should include carriage of goods by sea as well as rail traffic by placing the same under the jurisdiction of the Maritime Commission or some other statutory body with the necessary regulatory powers."

The Newfoundland Board of Trade suggested the following remedies:

1. That the following alternative steamship or car ferry routes be provided:
 - (a) From Campbellton, N.B., to Corner Brook for all movements between Corner Brook and Bishop's Falls (necessitating the building of a spur about 300 feet long from the pier at Corner Brook to the railway);
 - (b) Traffic for the Avalon Peninsula should be moved by water from Montreal, Halifax and North Sydney to St. John's, Newfoundland, and, to

accomplish this object, the Canadian National Railways should use the Admiralty property on the north side of the harbour at St. John's and build a spur about 600 feet long from the main line; and

- (c) The railway should provide two railway car ferries, able also to carry 30 or 40 automobiles, one on the west coast and the other on the east coast.

It is suggested that by establishing the foregoing arrangements the rates to and from the eastern portion of the Island could be reduced.

2. That St. John's be made a national harbour.

The position with respect to these complaints and suggested remedies is left in a somewhat confused state, because, of, *First*, an application of the Province of Newfoundland to the Board of Transport Commissioners:

"... for an Order directing the Canadian National Railway Company to cancel the tariffs presently in effect by that Company relative to the movement of traffic into, through and out of the Province of Newfoundland, and to substitute therefor tariffs and tolls based on the rate structure presently in effect in relation to the movement of traffic within, into and out of the region heretofore known as the Maritime Provinces."

This application was heard by the Board on December 14, 1949, and decision was rendered on February 14, 1950, 39 J.O.R. & R. 293, solely on the point that "all that the parties to the application wish to have at present is a decision on the question whether subsections 2 and 3 of Section 32 of the Terms of Union, and Section 13 of the Statute Law (Newfoundland) Amendment Act preclude the respondent (the Canadian National Railways) from exercising in Newfoundland the right which it would otherwise have under the Railway Act — that is, the right to discriminate in rates because of dissimilarity in circumstances and conditions".

The Board stated: "We think it is expedient to decide this preliminary question before proceeding further with the case", and answered the question "No."

The Board further stated with respect to subsection (2) of Section 32 of the Terms of Union:

"We think that the obvious purpose of this subsection is: first, to make Newfoundland part of the Maritime region in order that Newfoundland may have the benefit of the Maritime Freight Rates Act in respect to all freight movements between points in Newfoundland and points in the rest of the Maritime region; and secondly, to provide that carriage by water between North Sydney and Port aux Basques is to be regarded as carriage by rail for rate-making purposes."

It will be noted that the Board did not, at that time, make any decision as to whether the rate structure in Newfoundland is to be in general conformity with the rate structure in the other Maritime Provinces, but left that question for further determination. The Board held a hearing on that subject during the last two weeks of October, 1950;

Second, the withdrawal from consideration of the brief of the Provincial Government respecting freight rates;

Third, the entire withdrawal of the briefs of the Anglo-Newfoundland Development Company and the Buchans Mining Company;

Fourth, the submission of briefs to the Board of Transport Commissioners by the Provincial Government and the Anglo-Newfoundland Development Company (but not by the Buchans Mining Company) at the hearing at St. John's, Newfoundland, in the latter part of October, 1950; and

Fifth, the fact that the other parties who did not withdraw their briefs also submitted the same or similar briefs to the Board of Transport Commissioners at the said hearing at St. John's.

All of these facts have made it difficult to determine on what points useful advice may be given. However, it is considered advisable to deal with those matters which are before the Commission and which are within its terms of reference.

1. The first is the statement in subsection (2) of Section 32 of the Terms of Union that "for the purpose of railway rate regulation" the Island of Newfoundland "will be included in the Maritime region of Canada". The expression "Maritime Region" is not defined in the Terms of Union, nor is it found or defined in the Railway Act, nor in the Maritime Freight Rates Act, in the Transport Act, nor in any other relevant legislation.

Evidence has been submitted, however, that until July 1, 1949, the railways had divided Canada into five regions for rate-making purposes: (1) the Maritime region, which corresponds to what is known as the "Select Territory" under the Maritime Freight Rates Act; (2) the Ontario-Quebec or Central region; (3) the Superior or Algoma region; (4) the Prairie region, and (5) the Pacific region. (The last region was made part of the Prairie region on July 1, 1949, by Order of the Board.)

It appears that the term "Maritime Region", although not defined in any Act relating to "rate regulation", was probably intended to mean the term used by the railways in describing their freight rate zone east of Levis, Diamond Junction and Megantic, Quebec. If that is so it would follow, for example, that if there are "town tariff rates" in that region, Newfoundland would be also entitled to have town tariff rates; if there are commodity rates on potatoes in that region, Newfoundland would be entitled to similar rates, and so on.

It may be observed that at the recent hearings before the Board in Newfoundland a witness for the Canadian National was examined upon the question of the publication of distributing class rates between the following points and other points on the Island: St. John's, Corner Brook, Grand Falls, Bishop's Falls, Port aux Basques and Lewisporte.

2. The Commission is informed that the Canadian National Railways has been and is now making improvements in port facilities for the transfer of freight to and from Newfoundland, and for new rolling stock on the Island.

3. The Commission does not consider that the question of transferring supervisory authority from the Atlantic region of the Canadian National Railways to Headquarters at Montreal is one upon which any useful recommendation can be made.

4. It is not considered that it would be proper for the Commission to recommend the appointment of a permanent Advisory Committee to the Canadian National's management on the Island as that Committee would not have any responsibility for the financial results of the railway.

5. (a) As to the request that special rates be granted on raw materials moving from the mainland for processing in Newfoundland in order that the laid-down cost to manufacturers in Newfoundland may be made equal to that of manufacturers in other parts of Canada, this is not a principle adopted anywhere else (except to the extent that rates may be tapered for longer distances), and its acceptance cannot be recommended.

(b) Pending the implementation of the recommendations made in the chapter on Equalization, adoption of "town tariff" rates on the Island would meet to some extent the suggestion of "special rates within Newfoundland". The Commission is informed also that certain other freight concessions are applicable

only within Newfoundland and not elsewhere in Canada, such as low rates for the encouragement of vegetable growing, the stop-off privileges for unloading of small lots of flour and feed at carload rates, and certain other concessions.

(c) As to the special rates suggested in 5 (c) above, the same answer should be given as in the case of paragraph (a).

(d) It is not recommended that the railway management go beyond the Terms of Union in providing a rate structure for Newfoundland, nor beyond the terms of the Railway Act, as modified by the Maritime Freight Rates Act. The determination as to whether such rates are now at their proper level is one to be decided by the Board of Transport Commissioners.

6. The regulation of rates for carriage of goods by sea is dealt with elsewhere in this report.

7. It has not been established that additional routes and the provision of car ferries are necessary at present with respect to the routing of freight to and from Newfoundland. If the railway management finds it more economical to establish such routes and facilities they will presumably be provided from time to time.

8. The reduction of freight rates by the re-routing of traffic to or from the eastern portion of the Island is also a matter for railway management, but it is to be observed that Parliament provided only for the route via North Sydney-Port aux Basques.

9. The procedure to be followed in having a harbour placed under the administration of the National Harbours Board is set out in Section 8 of the National Harbours Board Act, and it is not advisable to recommend any change in this procedure.

10. As to the general complaint (No. 16 above) that the rate structure of Newfoundland is unconstitutional and does not conform to that of the mainland:

- (a) All questions concerning the constitutionality of the rate structure are matters for determination by the Board, or, in a proper case, by the Supreme Court of Canada.
- (b) The technical aspect of the rate structure is now before the Board and at this writing has been argued and is awaiting decision.

It must, therefore, be left to the Board to use its technical knowledge and exercise its judgment as to what constitutes a proper relationship of rates to and from Newfoundland for distances longer than exist in the so-called "Maritime Region" on the mainland.

11. Another matter with which the Commission is asked to deal is the incidence on secondary industry of the change-over from the Newfoundland Government's customs tariff prior to Union to the present Canadian customs tariff. It was suggested that as some industries are now required, as a result of the change, to purchase their raw materials in the other provinces of Canada, rather than in the United States, differences in the price levels of such raw materials should be adjusted by requiring the railways to carry such raw materials at lower rates than called for by the general rate level of the "Maritime Region".

Any economic disadvantage caused by reason of the change in customs tariff was a necessary incident to the Act of Union. It is not one which can or ought to be remedied through the instrumentality of freight rates. Freight rates to, from, and within Newfoundland must hereafter be dealt with by the

Board of Transport Commissioners. It must be assumed that the Board, in disposing of all questions affecting rates to and from Newfoundland, will be guided by the same principles as apply in the case of the other Provinces.

(Since the foregoing section was written final judgment has been delivered by the Board of Transport Commissioners in the case referred to above as "an application by the Province of Newfoundland for an Order directing the Canadian National Railways to cancel certain tariffs then in effect and to substitute other tariffs therefor". This is the case in which a preliminary judgment was delivered on February 14th, 1950, 39 J.O.R. & R. 293.

In this final judgment, dated January 22nd, 1951, the Board finds in favour of the province and against the railway upon the question of the interpretation to be given to the language used in Section 32(2) of the Terms of Union where the expression "Maritime Region" is found. In reference to the words of the subsection the judgment says, "They must mean that, notwithstanding certain dissimilar, disadvantageous circumstances and conditions pertaining to Newfoundland, this province is to be included rate-wise in the Maritime Region on a general level of rates similar to the other Maritime Provinces." The judgment then proceeds to give the Province the benefit of this interpretation of the subsection by directing the railway to prepare certain necessary tariff amendments, including the elimination of surcharges, to be made effective on or before March 1st, 1951.

On the question of town tariffs and commodity rates the judgment points out that these tariffs and rates are usually determined by negotiations between the railway and the interested parties. It suggests that negotiations of this sort be carried on in this case and says that the Board will give consideration to an application pertaining to any specific dispute relating thereto.)

8. GRAIN RATE VIA THE NATIONAL TRANSCONTINENTAL RAILWAY TO QUEBEC FOR EXPORT

The National Transcontinental Railway between Winnipeg and Moncton, which was constructed by the Canadian Government, now forms part of the Canadian National Railways.

In the General Freight Rate Investigation 1925-1927, the Board of Transport Commissioners dealt with the rate on grain via that line from Fort William, Port Arthur, Westfort and Armstrong, Ontario, (which are the dividing points between Western and Eastern Canada) to Quebec City for export, and by General Order No. 448 ordered the rate reduced from 34½ cents per 100 pounds on wheat to 18.34 cents. As a result of the post-war general percentage increases the latter rate has become 26 cents per 100 pounds.

The City of Quebec recommends that "a thorough investigation of the particular circumstances surrounding the establishment of such rate (as established by General Order 448) be undertaken with a view to implementing Sections 42 to 45 inclusive of the National Transcontinental Railway Act" (3 Edward VII, Chap. 71.) The City of Quebec refers to the grain rate via the Transcontinental as a "statutory rate" and urges that it be restored.

CONCLUSIONS

There are now only two statutes which create statutory rates and these are Section 325(5) of the Railway Act (the Crowsnest Pass Grain Rates) and the Maritime Freight Rates Act.

The Board appears to be completely free to exercise all its powers with respect to railway rates, save only for the two exceptions referred to.

So far as ascertained it is not proper to call the grain rate to Quebec a "statutory rate." The recent action of the Board in increasing this rate indicates that it is not its view that the rate prescribed in General Order No. 448 is statutory.

No protest appears to have been made to the Board on the subject. The City of Quebec is free to make an application to have the rate reduced if it thinks it has any statutory rights which the Board is violating, and should the Board refuse such application the City then has further recourse to the Supreme Court in the matter.

The Commission has no recommendation to make on this subject further than appears from what has been said above.

9. CLAIM OF THE CITY OF QUEBEC TO BE INCLUDED UNDER THE MARITIME FREIGHT RATES ACT

The City of Quebec and the Chamber of Commerce of the City of Quebec submitted that the Maritime Freight Rates Act should be amended to include Quebec City in the "select area" defined by that Act.

The brief referred to the findings of the Duncan Commission as a "rather arbitrary separation" and claimed that it constituted discrimination against the Port of Quebec.

In 1930 pursuant to Order in Council P.C. 1291 the Board was instructed to inquire into and report to the Government upon the subject matter of complaints which were made by Quebec City following the passage of the Act. Hearings took place in Quebec, Halifax and Saint John. The jurisdiction of the Board to inquire into the matter was questioned and the hearings scheduled for March 1931 in Ottawa were therefore postponed and nothing further was done.

Quebec now alleges that the Act creates an artificial disadvantage to the Port of Quebec, which should be removed by inclusion of this port in the "select area" under the Maritime Freight Rates Act.

CONCLUSIONS

The findings of the Duncan Commission were based upon (1) pre-Confederation promises made to the Maritime Provinces to enable them to obtain entry into the markets of Central Canada; (2) the greater increases in rates on the Intercolonial Railway since 1912 as compared with increases in the rest of Canada, and (3) the circuitry of the route taken by the Intercolonial Railway. The Duncan Commission accordingly recommended a reduction in rates in the Atlantic Division of the Canadian National Railways and said: "For this purpose we cannot regard the Atlantic Division as ending at Riviere du Loup and Monk, which are its present limits. The divisional points should in our view be Diamond Junction and Levis, *Diamond Junction being the point at which the Transcontinental Railway meets the old Intercolonial Railway, and Levis the point to which, in 1879, the Intercolonial Railway was extended.*"

It will be seen therefore that the foundation for the choice by the Duncan Commission of the limits of the "select area" lies in the historical terminal of the Intercolonial Railway.

Bearing in mind (a) the historical background for the claims of the Maritimes for relief; (b) the tying in of those claims with the purposes of the construction of the Intercolonial Railway, and (c) the fact that some point or points must be chosen as the limit for the "select area", the choice made by the Duncan Commission was a natural one.

It is probable that if the area were extended to include the City of Quebec, other claims for its extension would be made, perhaps with equally plausible arguments.

10. ARBITRARIES OVER MONTREAL

An arbitrary is a factor in a through rate; it is usually expressed in cents per hundred pounds or per ton, and is added to another rate at an intermediate point to make a through rate from the point of origin to the point of destination. Thus the freight rates between points west of Montreal and points in the Maritime Provinces are constructed by adding "arbitraries" to the Montreal rates. For example, the first class rate from Toronto to Montreal is \$1.20 per 100 pounds, the arbitrary of 47 cents per 100 pounds is added to the rate to produce a through rate to Saint John of \$1.67. On westbound traffic, by virtue of the operation of the Maritime Freight Rates Act, the arbitrary is 31 cents, so that the through rate from Saint John to Toronto is \$1.51 per 100 pounds.

The Maritime Board of Trade and the Provinces of New Brunswick and Nova Scotia complained that the application of the post-war horizontal increases to the arbitraries had "accentuated the disadvantage of distance" to the industries in the Maritimes on westbound traffic to markets in the Central Provinces, and to consumers in the Maritimes on eastbound traffic.

The Maritime Board of Trade contended that the arbitrary over Montreal should never be changed but kept constant to maintain the differential or to "maintain the relationships" which had existed immediately after the passing of the Maritime Freight Rates Act and to lessen the impact of horizontal increases when they came along.

In its final argument the Board of Trade stated that the arbitraries over Montreal constitute an important part of the Maritime rate structure, and while the Board of Trade made no recommendation to provide for maintenance of the arbitraries by amendments to the Maritime Freight Rates Act or the Railway Act, it "strongly commends the maintenance of the arbitraries as existed over Montreal on April 7, 1948, as a simple and effective method of lessening the impact of percentage increases in inter-territorial rates".

The railways contend that the use of arbitraries is merely a convenient method of making rates. Arbitraries they say should fluctuate by reflecting increases and decreases in the general level of rates and cannot be permanently fixed amounts. They argue that if the arbitrary is not increased, the factor of the joint through rate east of Montreal would never bear any share of the increase.

From 1900 to 1916 the arbitrary over Montreal on first class traffic to or from Saint John, N.B., for example, was 20 cents per 100 pounds, and this has changed over the years as follows:

	Saint John Arbitrary over Montreal	
	To or from Eastern Canada	To or from Western Canada
On December 1, 1916.....	24¢	24¢
March 15, 1918.....	27½¢	26½¢
August 12, 1918.....	34¢	33¢
September 13, 1920.....	47½¢	46½¢
January 1, 1921.....	45½¢	44½¢
December 1, 1921.....	42½¢	41¢
August 1, 1922.....	42½¢	24¢
April 14, 1924.....	32¢	24¢

	Saint John Arbitrary over Montreal			
	Eastbound	Westbound*	Eastbound	Westbound*
July 1, 1927.....	32¢	21¢	24¢	12¢
Present time (November, 1950).....	47¢	31¢	34¢	18¢

*This change was brought about by the Maritime Freight Rates Act. The rate quoted is under the Maritime Freight Rates Act and is 80% of the total amount received by the railways for the haul as far as Levis, Quebec, the other 20% being paid by the Government to the railways.

In *Re Freight Tolls 1922*, 12 J.O.R. & R., page 61, the Board, referring to the arbitraries over Montreal, said: "These arbitraries were, of course, advanced along with other rates, arbitraries or proportionals under the various subsequent changes." The Board pointed out the importance of the arbitraries and said that this system of rate making "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. As the class rate structure in Eastern Canada is not being disturbed at this time no change should be made in these arbitraries". The Board then went on to say that a different situation existed with reference to rates between Eastern Canada and points west of Fort William, and said: "Points east of Montreal are put to an undue disadvantage in comparison by the addition to the Montreal rate of scale of arbitraries that does not indicate an equitable continuation of a long-haul rate." The Board held that these arbitraries over Montreal should be scaled down on traffic to or from Western Canada. In 1924 the railways voluntarily reduced the arbitrary on traffic to or from Eastern Canada, as indicated in the preceding table.

To sum up, the Board has recognized the importance of these arbitraries in the system of rate-making and over the years it has raised and lowered them; they have not been constant.

CONCLUSIONS

1. An arbitrary is a part of a through rate, and it would be contrary to sound principles of rate-making to keep the arbitrary portion of the through rate at a constant figure regardless of changes in the over-all levels of rates.

2. Whether or not the same percentage of increase should be added to or reduction should be deducted from an arbitrary in any given case is a matter which the Board should decide on the principles which it adopted in the 1922 reduction case, namely after considering the relevant facts and the effect on the through rates.

3. In increasing an arbitrary which forms part of a through rate from or to the select territory under the Maritime Freight Rates Act, the following must be borne in mind:

- (a) Under Section 3 of that Act the tariffs of tolls in respect of preferred movements on July 1, 1927, were ordered to be cancelled and other tariffs showing a reduction of approximately 20 per cent were ordered to be substituted;
- (b) The Board is authorized and directed to maintain such substituted tariffs on the general level approximately 20 per cent below the tolls existing on July 1, 1927, while the cost of railway operation in Canada remains approximately the same as at the said date;
- (c) But the Board may allow the increase or reduction of such tolls or tariffs from time to time to meet increases or reductions, as the case may be, in such cost of operations; and

(d) The arbitraries over Montreal fall within the words "tariffs of tolls" and "tolls or tariffs" used in Section 3 of the said Act and may be properly increased or decreased subject to the limitations contained in Section 3, in the same manner as any other tolls may be increased or decreased under the said Act, subject of course to the provisions of Sections 7 and 8 of the said Act.

4. The duty of the Board is the same when it is considering an arbitrary which is a factor of a through rate in respect of preferred movements under the Act as it is when considering any other rate in respect of preferred movements; the Board's duty under Section 8 is to consider whether the tariff may "destroy or prejudicially affect" the statutory advantages conferred by the Act.

5. The simple expedient of making the arbitrary constant does not appear to be sound in principle, either to "lessen the impact of horizontal increases" or to "maintain differentials or relationships".

6. If the application of increases to the arbitrary has destroyed or prejudicially affected the "statutory advantages", the rate should be attacked on that ground, and the Board could then decide the matter upon complaint. This is the proper approach to the problem.

7. As has been stated by the Board, the use of arbitraries in the system of rate-making is an integral part of the whole class rate structure.

RECOMMENDATIONS

It is not advisable to amend either the Railway Act or the Maritime Freight Rates Act to provide for constant arbitraries over Montreal. Each case concerning arbitraries should be decided on its own merits under existing legislation.

11. INADEQUATE RAILWAY SERVICE

There were relatively few complaints made to the Commission of inadequate service by the railways. Those that were made came from three sources.

First from Prince Edward Island. Extensive evidence was given that the quality of service throughout the entire province is generally poor, that the train service is faulty, that schedules are not kept, and that very substantial delays occur in the delivery of less than carload freight.

The second complaint was made by the Council of Economic Planning of the Saguenay Region, Quebec. It alleged that poor equipment and poor service hindered the development of this region. The Council's Brief stated that the railways had not accomplished progress consonant with the development of the region. It was stated that in sixty years there had been little change in the railway, although the population had increased six or seven times, and it was urged that a complete investigation be made of the whole railway problem for the Saguenay Region. Particular reference was made to the slowness in freight traffic, which results, it was said, in people using trucks, even at higher cost.

The third complaint came from the Province of Newfoundland, and is dealt with under the heading "Submissions of the Government of Newfoundland".

CONCLUSIONS

Section 312 of the Railway Act provides that railway companies must, according to their powers, furnish adequate and suitable accommodation for the receiving, loading and unloading of all traffic for carriage upon the railway, and without delay carry and deliver all traffic; and they are likewise obliged to furnish such other service incidental to transportation as is customary or usual in connection with the business of a railway company and as may be ordered

by the Board. If in any case such accommodation is not, in the opinion of the Board, furnished by the company, the Board may order the furnishing of the same having regard to all proper interests. All of the foregoing, of course, is subject to the limitations of the powers of the company itself.

With respect to the complaints from the Saguenay Region, the situation has changed in some measure since the sittings of the Commission came to an end. In June 1950, the Canadian National Railways assigned Diesel power to freight service in this territory. However, no diesels are being used in passenger service.

In the case of Prince Edward Island a change has also occurred. Complete dieselization of the railway took place in June 1950. This applies to all trains, passenger, freight and mixed. No change has been made in the time schedule on the Island, but the Commission is informed that train service has improved in this respect with the use of Diesel power.

The Commission is not in a position to make recommendations with respect to any of the matters still outstanding. It would require full scale investigations and hearings and proper machinery is now set up under the Act for dealing with situations of this kind.

12. TRANS-CANADA HIGHWAY

Several of the Provincial briefs which were presented to the Commission dealt incidentally with the Trans-Canada Highway. They stressed the necessity of proceeding with the completion of the highway and the importance of it to the country as a whole. There were also some suggestions made as to the route the highway should follow.

There was, however, one brief presented by an organization called The Trans-Canada Highway System Association which dealt solely with the proposed highway, and its submissions may be summarized as follows:

- (a) That the Highway is important for national defence and for the economy of the country and must therefore be planned on a national rather than a provincial basis.
- (b) That the selection of the route therefore is within the jurisdiction and responsibility of the Federal Government.

The brief asks for the appointment of a Federal Highway Commission or authority to study all phases of construction and the route which the Highway should take.

CONCLUSIONS

It is not necessary to say anything as to the importance of the Highway from the point of view of national defence or the economy of the country, but it seems to be important to the Provinces individually as well as collectively.

Under these circumstances there can be no useful purpose in appointing a Commission or other body to attempt to compel the respective parties to agree upon a route.

There is no doubt that the authorities in both the Provincial and Federal Governments will give proper attention to the route and to all engineering phases with respect to the highway.

The Commission has been advised that generally speaking the Federal Government and the majority of the Provinces have concluded agreements satisfactory to them; accordingly no recommendation can be made at this time as to any changes in the legislation affecting the construction of this highway.

13. RAILWAY OWNERSHIP OF TRUCK LINES

The Manitoba Federation of Agriculture and Co-operation and the Anglo Canadian Oils Limited stated that the railway companies should not be permitted to go into the ownership and operation of truck lines because, they said, this would have the effect of stifling competition. The Calgary Board of Trade, the Edmonton Chamber of Commerce, the Cities of Edmonton and Calgary and the Alberta Co-operative Union expressed the view that railways should not be allowed to purchase truck lines unless they were "complementary" to rail service. The British Columbia Feed Manufacturers Association stated that railways should only be allowed to operate truck lines as "supplementary" to the railway system. The difference between "complementary" and "supplementary" in this connection was not made clear. The Canadian Industrial Traffic League was of the opinion that the railways should be allowed to go into the trucking business but only as long as their operations do not tend to stifle competition.

CONCLUSIONS

It would seem that operation of trucks may be an essential and complementary part of railway operation, more especially in view of changing conditions. Under these circumstances it does not appear reasonable that railways should be prohibited from operating trucks or truck lines. There is no evidence to show that there is danger at present of the railways stifling competition by ownership of trucks. This would be a matter to be dealt with if and when the occasion arises.

14. THE RAILWAY GRADE CROSSING FUND

The Railway Grade Crossing Fund was established in 1909 and provided federal assistance for the protection, safety and convenience of the public where a railway and a highway cross each other at the same level.

During the depression period from 1930-39 Parliament appropriated large sums to eliminate level crossings as an unemployment relief measure.

Crossings are protected in various ways, for example, by signs, cattle guards, low grade approaches, improvement of sight lines, flashing lights, bells and grade separations.

From 1909 to 1947 approximately \$44 million was spent, \$12 million of which was contributed by the Federal Government through the Grade Crossing Fund and votes for unemployment relief. The railways paid about \$16.5 million, and highway authorities the remainder. These sums are exclusive of (a) operating and maintenance costs; (b) costs of widening, improving or maintaining existing subways and overhead bridges; (c) cost of grade separation where the paramount purpose of the work is railway or highway improvement rather than protection of the public; and (d) costs incurred in connection with railways built since May 19, 1909, the date the original Act was proclaimed. The rule in the latter case is that the "junior road" (that is the railway company or the highway authority which has built the new facility across the "senior" or previously existing road) will pay the whole cost of protection.

Under the provisions of Sections 256 to 267 of the Railway Act, the Board of Transport Commissioners is vested with power to order grade crossing elimination or protection by automatic signal devices or otherwise whenever it deems such measures are necessary on grounds of public safety.

The fund set up under Section 262 is replenished annually by appropriation from the Consolidated Revenue Fund of Canada, and the fund so set up is administered by the Board, which has power to make contributions therefrom. Under the Section as it now stands contributions are limited to 40 per cent of the total cost of actual construction work with a maximum of \$150,000 for any

one project. (By amendment in 1950 this maximum was increased from \$100,000 to \$150,000.) Section 262(2) provides that any province may add to the fund upon its own terms, but to date none of the Provinces has so contributed, although several have contributed to the cost of specific works, which have been approved by the Board.

Costs of grade separations vary, and, as the Commission is advised, average about \$300,000, but have reached as high as \$700,000.

The railways allege that if the program of grade crossing elimination is accelerated, it will impose an insupportable burden on them unless the fund is increased and the limitations now imposed upon contributions from the fund are altered.

The usual practice of the Board is to apportion between the railway and the highway authority the balance of the cost remaining after the contribution from the fund.

THE RAILWAYS' SUBMISSIONS

The railways stated that (a) the contribution limited to \$100,000 (now \$150,000) is insufficient under present day conditions because of increased costs of construction; (b) the imposition of any maximum is illogical and should be deleted from Section 262, and (c) that if it is proper for a percentage of the cost to be assumed by the fund it is unfair to prevent that percentage from being granted because of the operation of a fixed limit in the statute.

The railways contended that the additional hazard that may now exist at grade crossings is not attributable to them. There has been, they say, a complete reversal of the situation which existed in 1909 when the sections were passed. At that time the increasing speed of trains caused the need for additional protection; now, however, it is the revolution in highway traffic which has increased the hazards, and although the railways have not created the additional need for the grade separations, requiring expensive overhead bridges and subways, nevertheless they are having to bear a great deal of the expense. They contend that this is unjust and that the cost should be borne largely by the highway authorities.

The Canadian Pacific Railway accordingly requested that contributions from the fund should be raised from 40 per cent to 70 per cent; the Canadian National asked that they be raised to 75 per cent.

The Province of New Brunswick proposed that the cost, after contribution of 70 per cent from the fund, be apportioned 20 per cent to the railways and 10 per cent to the provinces and municipalities.

The railways contend that the power of apportionment should be left to the Board, and that a fixed formula would be unfair and impracticable.

It has been held that under the Act as it now stands, no provincial contribution may be ordered.

Both the Canadian National and Canadian Pacific railways proposed amending Section 259 of the Railway Act to provide for assessments against the Crown, the intention being to levy these assessments against the provinces.

Both railways urged the repeal of Section 260 of the Railway Act. Under this section if the line was constructed after May 19, 1909, the railway must bear the entire cost unless there is an agreement with or contribution from a municipality, person or corporation, as provided in the said section. The railways contend that it is no longer logical or justifiable to treat crossings that came into being before a certain date in one way, and those which came into existence after that date in another way.

The Canadian National Railways in its proposals went considerably further than the Canadian Pacific. The Canadian National wants to place a limit on the contribution which the Board may order the railways to make, this limit to be

50 per cent of the difference between the total cost and the contribution from the fund or to the capitalized benefits accruing to the railway, whichever is the lesser, and proposed an amendment to Section 259 to bring this about.

The Canadian National's proposed amendment to Section 262 is also broader than that of the Canadian Pacific, in that it includes the costs of maintenance and operation as well as of construction.

The Canadian National proposed an amendment to Section 264 which would preclude the Board from issuing an order to widen, or strengthen a bridge or subway unless there was a contribution from the Grade Crossing Fund. The grounds for their proposal are that there should be a contribution for rebuilding a structure as well as for building a new one, because the changed traffic conditions which require the rebuilding, widening or strengthening of the structure are not railway traffic conditions, but rather highway traffic conditions.

To sum up, both railways urge (a) that Section 259 be amended to bind the Crown in the right of the provinces; (b) that Section 260 be repealed so that all railway crossings regardless of the date when built should be treated on the same footing; (c) that Section 262(2) be amended to eliminate the \$150,000 maximum limit of contribution from the Grade Crossing Fund for any one project; (d) that Section 262 be amended to change the 40 per cent contribution from the Fund to 70 per cent (C.P.R.) or 75 per cent (C.N.R.).

The Canadian National Railways further proposes that Section 264 be amended so as to provide that the Board may order the rebuilding, widening or strengthening of bridges, subways, etc., only in cases where there is a contribution from the Fund.

THE PROVINCIAL SUBMISSIONS

Manitoba, Alberta and Saskatchewan opposed the amendment to bind the Crown in the right of the provinces, and also the proposal that the \$150,000 limit be eliminated. They favoured the percentage being increased from 40 per cent to 70 per cent or 75 per cent. They opposed the Canadian National amendments to both Sections 262 and 264. They approved the proposal that the Fund should be used for operation and maintenance as well as installation costs.

New Brunswick opposed the Canadian National Railway amendment limiting the railways' contribution to 50 per cent of the cost but agreed to the province being bound, subject, however, to a proviso that the total cost ordered to be paid by the province or municipal corporation should not exceed 10 per cent of the cost of the work.

These four Provinces opposed the repeal of Section 260.

CONCLUSIONS

1. Whether or not the Crown in the right of the province could be bound by a statute of Parliament presents a legal question and one on which the Commission should not venture to express an opinion or offer any recommendation for legislation. Parliament seems to have recognized either the difficulty inherent in such a situation or the lack of any necessity to attempt to bind the Provinces, and has accordingly passed Section 262(3) of the Railway Act under which it is provided merely that the Provinces are at liberty to contribute to the Fund under such conditions and restrictions as they themselves may impose.

2. In 1919 the amount to be contributed for one project was limited to \$25,000; in 1928 this limitation was increased to \$100,000, and in 1950 was again increased to \$150,000. It appears that Parliament has given careful consideration to this matter from time to time and as late as in 1950. There seems to be no reason to recommend the elimination of the maximum amount so recently set.

3. Parliament has for a considerable number of years appropriated \$500,000 per annum to the Fund and in 1950 increased the appropriation to \$1,000,000 for six consecutive years beginning the first of April 1951. It appears that the question of the amount of money to be appropriated for works of this kind, and the conditions under which the Board is to make contributions from such appropriations is peculiarly a matter for Parliament. Accordingly there is no recommendation to be made on the subject, more particularly as in the case referred to in the immediately preceding paragraph, Parliament has taken very recent action in fixing the amount.

4. The request to increase the 40 per cent to 70 per cent or 75 per cent seems to be based on the unjustified assumption that there is a primary obligation upon Parliament to provide financial assistance to the railways in the matter of level crossing elimination or protection. The primary obligation rests upon the railways, and the amount of assistance which Parliament may provide is for it to determine. This Commission is not qualified to advise Parliament as to the form or amount which this assistance should take.

RECOMMENDATIONS

The amendments proposed by the railways and by the provinces are not recommended. It may be that the time has come for the reconsideration of the appropriateness of the date May 19, 1909, fixed in Section 260 of the Railway Act. There are good reasons why the character of the liability placed upon the railways by that section should have a date of origin some time in the past, perhaps for a period of five or ten years, but the date presently fixed in the statute extends back further than is now appropriate.

15. SASKATCHEWAN SUBSIDIES PROPOSAL

The Province of Saskatchewan submitted to the Commission what its Counsel termed "the main recommendations" of that Province. The proposal was prefaced by three important premises:

1. That an adequate measure of relief from the transportation burden resting on the Prairie Provinces cannot be achieved through the medium of any rate structure capable of implementation;
2. That some further device must be employed if the Prairies are to be compensated in a degree commensurate with the burden they are now forced to support and if that same area is to be protected in the future; and
3. That the Saskatchewan proposal would make the railways "true instruments of national policy".

The proposal consists of two subsidies payable by the Federal Government: (1) The Compensation Subsidy—"calculated to compensate for the past", and (2) The Deficit Subsidy—"to guard against impending evils of the future."

It was stated that the compensation subsidy would not really compensate for the past but it is designed to correct certain events of the past which have harmed the prairies, and which are "part and parcel of the transportation problem".

1. *The Compensation Subsidy*: The subsidy is to reimburse the railways for a deduction to be made from all freight bills
 - (a) on all rail freight traffic movements within the boundaries of Manitoba, Saskatchewan and Alberta;

- (b) on all rail freight and lake and rail movements within Canada originating in these provinces to points of destination in other provinces; and
- (c) on all rail and lake and rail freight movements within Canada terminating in these provinces from points of origin in other provinces, excepting however grain and grain products moving at Crown's Past rates.

Commenting on the Compensation Subsidy the province puts forth five main reasons in its favour:

- (a) That it is modelled on the Maritime Freight Rates Act and is a close analogy thereto. The positions of the two regions are quite comparable as far as the handicaps of Confederation and the National Policy are concerned; (These handicaps were said to be the customs tariff and the railway policy compelling East-West traffic.)
- (b) That the proposal relates to both inbound and outbound freight in contrast to the Maritime Freight Rates Act which does not apply to inbound freight, because the Province of Saskatchewan believes that consumers as well as producers require relief;
- (c) That the plight of the prairie area is more serious than that of the Maritimes, the long haul to the west is longer, and the west has not the advantage of water transportation that exists in the Maritimes;
- (d) That the impact of the customs tariff is more serious in the case of Saskatchewan; and
- (e) That there is no better way of giving effective relief to the people of the Prairies and especially Saskatchewan than through freight rates.

The province urged that the Commission recommend an Act of Parliament modelled on the Maritime Freight Rates Act, providing for a 20 per cent reduction in freight rates. It frankly stated that the 20 per cent figure was used because this was the figure used in the Maritime Freight Rates Act. It estimated that the annual subsidy payable in respect of the three Prairie Provinces under the proposal would be approximately forty million dollars.

The proposal applied to Manitoba and Alberta. Neither of these provinces associated itself with Saskatchewan in putting it forward.

2. *The Deficit Subsidy:* The Province of Saskatchewan stated:

- (a) That there is an admitted loss on passenger traffic;
- (b) That although not provable, there is a suspected loss on competitive rates and short haul less-than-carload traffic;
- (c) That competition from trucks and aircraft will undoubtedly become more severe; and
- (d) That excessive rates are being charged on long haul traffic to compensate for these losses, and there is every likelihood of an increase in this phenomenon.

The point stressed by the province is that the impact of all these problems focuses eventually on long haul traffic and necessitates the maintenance of higher rates than are justified on this type of traffic, and leads to unduly high charges on traffic in areas such as Saskatchewan where relative monopoly has been maintained by the railways and particularly on traffic least susceptible to competition. The province stated that as pressure for further revenues continues, increases will be applied wherever the monopoly continues.

The province therefore proposed a deficit subsidy by payments out of the Federal treasury to the end that the railways may continue to provide satisfactory services despite inadequate operating revenue.

With this in mind the province suggested an amendment by adding a section to the Railway Act as follows: "Section 325A":

"325A. On any application by the railways for a general increase in freight rates the Board, if it finds that the railways require revenue for their efficient operation, may either:

- (a) order such general increase as it finds is necessary; or
- (b) recommend to the Government of Canada that any additional sum so required be paid by the Government to the railways or to any specified railway, in whole or in part."

Both railways expressed the view that the principle of the Maritime Freight Rates Act should not be extended. The Canadian Pacific took a decided stand against the payment of subsidies generally, and freight subsidies in particular. It was pointed out that the passing of an Act applicable to the Prairies to bring about the Compensation Subsidy would conflict with Section 8 of the Maritime Freight Rates Act which was to give certain statutory advantages to persons and industries in the select territory, and that this would immediately bring about a clamour from the Maritimes for still greater reductions to restore these advantages. It was also argued that if the principle of extending the Act were once adopted it could not be stopped logically at any point.

CONCLUSIONS

No case has been made out for the Compensation Subsidy. It is to be noted that although applicable to both Alberta and Manitoba neither of these provinces advocated it. The basis of the claim really is the "long haul" and a subsidy is not the remedy.

The analogy to the Maritime Freight Rates Act does not exist; the reasons given for the passage of that Act were: (a) Pre-confederation promises; (b) restoration of rates to the level that had been established to give effect to these promises, and (c) the additional mileage of the route taken by the Intercolonial Railway for strategic purposes.

The adoption of the proposal would have the effect of creating still more anomalies.

The Deficit Subsidy proposal does not commend itself to the Commission. In effect the proposed amendment would simply give the Board the power to do two things:

- (a) order an increase in rates if it finds it is necessary (this it already has the power to do), and
- (b) recommend to the Government the payment of a subsidy to the railways of such amount as the Board thinks cannot be raised by freight rates. It is to be pointed out that the Board might come to a conclusion, for example, that in an application for a 25 per cent increase, only 15 per cent could be raised by freight rates and would recommend a subsidy to cover the remaining 10 per cent.

This proposal would create a relationship between the Board and the Government of the country which would be intolerable. The Board's duty is to assess the requirements of the railways and to provide rates that will be just and reasonable to the railways on the one hand and to the shippers and consignees on the other. The Deficit Subsidy proposal envisages the Board saying that it cannot fix just and reasonable rates because the traffic cannot bear them, or because the rates which it would consider just and reasonable to the railways would cause undue hardship to shippers or to regions. The Board should not be put in the invidious position which is envisaged by this proposal. It would both weaken the position of the Board and create pressure upon the Government of the day to prevent increases in rates.

16. THE RAILWAYS SUBSIDIES ACTS
and
THE CANADA AND GULF TERMINAL RAILWAY COMPANY

A brief was presented by The Canada and Gulf Terminal Railway Company (originally the Matane and Gaspé Railway) requesting the Commission to recommend the repeal of the Railway Subsidies Act of 1903 and its subsequent amendments. An amended submission was made later, however, limiting the request to the repeal of Section 7 of the Act of 1903, as amended by Section 6, Chapter 43 of the Statutes of Canada, 1906, and Section 7, Chapter 63, of 1907-08.

Section 7 of the said Act reads as follows:

"Every company receiving a subsidy under this Act, its successors and assigns, and any person or company controlling or operating the railway or portion of railway subsidized under this Act, shall each year furnish to the Government of Canada transportation for men, supplies, materials and mails over the portion of the lines in respect of which it has received such subsidy, and, whenever required, shall furnish mail cars properly equipped for such mail service; and such transportation and service shall be performed at such rates as are agreed upon between the Minister of the Department of the Government for which such service is being performed, and the company performing it, and, in case of disagreement, then at such rates as are approved by the Governor in Council; and in or towards payment of such charges the Government of Canada shall be credited by the company with a sum equal to three per cent per annum on the amount of the subsidy received by the company under this Act."

(For the sake of brevity reference will be made to the portion in italics of this section as the "Recovery Clause".)

The provisions of Section 7 of the Subsidies Act, 1903, were retained in all succeeding Acts, with the sole exception that the Board of Railway Commissioners was substituted for the Governor in Council as the final rate-fixing body in case of disagreement as to rates between the designated minister of the Crown and the railway company in question. Under the provisions of the Act the company received a subsidy of \$210,053.59 for the establishment of a railway line between Ste. Flavie (now Mont Joli) and Matane, Quebec.

The brief alleged that following the granting of the subsidy and the completion of its line The Canada and Gulf Terminal Railway Company proceeded to carry the mails and to perform other services for the government in accordance with its obligations as fixed by the Act.

The reasons given for the repeal asked for were summarized in the brief as follows:

"To sum up, Section 7 of the Subsidies Act 1903 as amended is prejudicial to the best interests of the generality of Canadian railways subject to it and particularly to those of your Applicant because,

- (1) It is obsolete;
- (2) Certain lines which received equal if not greater benefits are not subject to it;
- (3) It is not being applied to all railway lines to whom its provisions originally extended;
- (4) It is not being applied by all departments of Government;
- (5) The practice of the Post Office Department in arbitrarily and unilaterally fixing rates for the carriage of mails so low as to preclude the railways from earning sums equal to the annual amount due to the Government under the Act, constitutes a hardship for the railways;
- (6) The aggregate amounts collected from all the railway lines still subject to the Act is infinitesimal, taking into consideration the enormous financial operations of the major railways and the Government."

CONCLUSIONS

It appears that Parliament in other cases has provided assistance by grants of subsidies to railway companies without insisting on the inclusion of a recovery clause in the terms of the grant. A report issued by the Department of Transport dated October 18, 1949, entitled "Dominion Railway Subsidies under Legislation, 1899", shows that the following companies were granted subsidies without the three per cent recovery clause:

Temiskaming & Northern Ontario Railway.....	\$2,134,080.00 — 1913
Central Canada Railway Co.....	175,000.00 — 1918
Northern Alberta Railway Co.....	338,382.48 — 1916-19
a total of.....	<u>\$2,647,462.48.</u>

Some of the railways which were subject to the three per cent recovery clause have been taken over by the Canadian National Railways. The Receiver General still recovers from a few of these companies. In most cases, however, the recovery is no longer effected.

According to information made available, the total amount of subsidies paid to all railways under the various Subsidies Acts from 1899 to 1948 was approximately \$51½ million. The list indicates that the last Subsidies Act was in 1925.

Thirty-three railways in all, now forming part of the Canadian National Railways System (and for convenience hereinafter referred to as the "C.N.R. Group") received approximately \$34.90 million for about 3,360 miles.

Thirty-seven railways in all, now forming part of the Canadian Pacific Railway System (hereinafter called the "C.P.R. Group") received approximately \$9.99 million for about 1,800 miles.

Nineteen other railways received approximately \$4.06 million for about 590 miles.

(Three other railways received approximately \$2.64 million for about 740 miles, but the Acts relating to them did not contain the three per cent recovery clause, and are therefore not considered for the purpose of this discussion.)

The various departments of government do not pay for services performed on their behalf by the railway companies subject to the recovery clause until the amount due for services equals the amount due under the said clause. It then becomes a matter of book entries between the department concerned and the Receiver General.

The Auditor General's reports indicate that from the fiscal years 1900-01 to 1947-48 the amounts so paid total approximately \$5.97 million. These sums were, in the earlier years (especially from 1907-1922) received from several departments, namely the Post Office, National Defence, Naval Services, Indian Affairs, Interior, Royal Canadian Mounted Police, etc. In the main they came from the Post Office (\$4.99 million) and National Defence (\$886 thousand).

Since 1921-22, however, the only payments received were from the Post Office and National Defence, and in the case of the latter less than \$28,000 has been paid since 1923, and even of this amount over \$14,000 was paid in the one fiscal year 1945-46.

In the forty-one years that the Post Office has paid these amounts to the Receiver General they have averaged approximately \$122,000 per annum and in the last four years have averaged \$145,000.

The C.N.R. Group in 1948-49 paid, under the recovery clause, \$36,946.88, and the C.P.R. Group in the same year paid \$97,516.15.

Only three other railways (apart from the Northern Alberta Railway, which is jointly owned by the Canadian National and Canadian Pacific railways) paid anything under the recovery clause.

These payments were:

Algoma and Hudson Bay Railway Co.....	\$ 4,043.96
The Canada Gulf and Terminal Railway Co.....	2,494.92
Napierville Junction Rly. Co.....	5,146.83
	<hr/>
Total.....	\$11,685.71
	<hr/> <hr/>

Thus railways which received approximately \$35 million paid \$36,900; and railways which received approximately \$10 million paid \$97,500; and railways which received approximately \$4 million paid \$11,600, and of the 33 railways originally in the C.N.R. Group only 3 paid under the recovery clause last year; of the 37 in the C.P.R. Group only 15 paid, and of the 19 in the other group only 3 paid last year.

It is doubtful if the matter comes within the terms of reference, but since it appears that there is discrimination in treatment of the various railways involved, it has been thought well to set out the above facts for the attention of the proper authorities.

17. FEED GRAIN ASSISTANCE

The six eastern provinces and British Columbia obtain feed grains annually from the Prairie Provinces. To aid farmers in procuring these feeds in greater quantities and to keep down costs of production the Government of Canada embarked on a feed assistance policy. Early in 1941 the Government agreed to pay one-half of the regular freight charges on feed grain moved to the eastern provinces, provided the Provincial Governments paid the remainder of the freight costs. Ontario was the only province to take advantage of this arrangement. In the fall of 1941 the Government of Canada provided freight assistance on feed wheat, oats, barley, rye, corn, screenings and millfeeds. In the first instance the Government agreed to pay one-third of the freight charges on feed grain shipped to the East but later paid almost all the freight charges on western grains and millfeeds moved from Fort William and Port Arthur to points in Eastern Canada and from points in Western Canada to British Columbia. This policy of freight payments on the movement of western feed grains has been continued annually ever since, pursuant to a series of thirteen Orders in Council commencing September 25, 1941, and still continuing in the autumn of 1950. In June of 1950 the Minister of Agriculture reported that since the policy was inaugurated in 1941 nearly \$140,000,000 had been paid out in freight assistance and this had involved the movement of 825,000,000 bushels of grain and grain products.

The Maritime Board of Trade said that feed grain assistance encouraged production of livestock in the Maritime Provinces and removed the disadvantages of distance, and requested the Commission to recommend the continuance of the feed grain assistance policy.

The Province of Prince Edward Island stated that disastrous consequences to the livestock, dairy and poultry production on the Island would follow withdrawal of the feed grain assistance policy. They recommended that this policy become a "permanent national policy".

The Canadian Federation of Agriculture recommended that the feed grain assistance policy be incorporated into the freight rate structure as a permanent feature of Canada's national agricultural programme and stated it should be brought about by "Parliamentary statute similar to the Maritime Freight Rates Act".

The Province of New Brunswick stated that the feed grain assistance policy should be continued as it is and that without such assistance the domestic poultry industry could not survive.

The Canadian Automotive Association complained of the fact that the assistance policy does not extend to the costs of transportation by truck from Ontario lake ports inland.

CONCLUSIONS

Although the argument was advanced that this feed grain assistance policy is a method of alleviating the disadvantages of long haul shippers, it does not appear to be a matter of transportation within the terms of reference of P.C. 6033. This policy was adopted during the war by the Government of Canada to encourage and increase the production of feeds and fodder, livestock and poultry. It is a matter of direct subsidy to the industries involved. The Government pays the freight charges and the profit to the railways arises through the increase in the volume of traffic above that which there would be if there were no such subsidy.

Undoubtedly the payment of the large sums involved has encouraged the production of livestock and poultry in British Columbia and in the Central and Maritime provinces. The question whether or not the policy should be continued is not one upon which the Commission is able to make any recommendation.

18. RAILWAY SIDE AND HEAD CLEARANCES

Section 250 of the Railway Act provides as follows:

"Every bridge, tunnel or other erection or structure, over, through or under which any railway passes, shall be so constructed and maintained as to afford, at all times, an open and clear headway of at least seven feet between the top of the highest freight car used on the railway and the lowest beams, members, or portions of that part of such bridge, tunnel, erection or structure, which is directly over the space liable to be traversed by such car in passing thereunder.

"2. The Board may, if necessary, require any existing bridge, tunnel, or other erection or structure to be reconstructed or altered, within such time as it may order, so as to comply with the requirements mentioned in the last preceding subsection; and any such bridge, tunnel, or other erection or structure, when so reconstructed or altered shall thereafter be maintained accordingly.

"3. Except by leave of the Board the space between the rail level and such beams, members or portions of any such structure, constructed after the first day of February, one thousand nine hundred and four, shall in no case be less than twenty-two feet six inches.

"4. If, in any case, it is necessary to raise, reconstruct or alter any bridge, tunnel, erection or structure not owned by the company, the Board, upon application of the company, and upon notice to all parties interested, or without any application, may make such order, allowing or requiring such raising, reconstruction or alteration, and upon such terms and conditions as to the Board shall appear just and proper and in the public interest.

"5. The Board may exempt from the operation of this section any bridge, tunnel, erection or structure, over, through or under which it is satisfied no trains, except such as are equipped with air brakes, are run."

It will be observed that under subsection 1 of this section a railway must maintain a clearance of at least 7 feet between the top of the highest freight car used on the railway and the lowest part of any bridge, tunnel or structure under which such car may pass.

Under subsection 3, the space between rail level and the lowest part of the bridge, tunnel or structure must be at least $22\frac{1}{2}$ feet in the case of any such structure constructed after February 1st, 1904, except by leave of the Board, and under

subsection 5, the Board may exempt structures from the operation of the section if all trains operating over, through or under such structures are equipped with air brakes.

The Railway Transportation Brotherhood stated (1) that the head clearance is inadequate and (2) that the Board has been too liberal in granting exemptions. They stated that head clearances should be specified simply as 7 feet above the highest car in service and the Board's power to grant exemptions should be restricted.

The same organization said that Section 250 should be amended to provide for statutory side clearances applicable to all lines of railway regardless of when they were built.

Section 287 of the Railway Act provides inter alia as follows:

"287. The Board may make orders and regulations (g) with respect to the rolling stock, apparatus, cattleguards, appliances, signals, methods, devices, structures and works, including light, heat and power lines or wires, to be used upon the railway, so as to provide means for the due protection of property, the employees of the company, and the public and all persons travelling on His Majesty's service;

(1) generally providing for the protection of property, and the protection, safety, accommodation and comfort of the public, and of the employees of the company, in the running and operating of trains and the speed thereof, or the use of engines, by the company on or in connection with the railway."

The amendments proposed by the Brotherhood were as follows:

"That Section 250 of the Railway Act be amended to provide:

1. A safe side clearance appropriate to the use of equipment of present and anticipated dimensions, in addition to vertical clearance now prescribed by subsection (1).
2. That subsections (3) and (5) be amended to conform with subsection (1).
3. Requirements that any new construction or rearrangement of tracks or alteration of buildings, conform with the clearance standards prescribed by subsection (1) as proposed to be amended.
4. Requirement that there be undertaken the early rearrangement of parallel tracks, and such practicable alteration of structures, with special references to general switching and terminal yards of railways, that will provide safe clearances.
5. That men be not required to ride the tops or sides of rolling stock in areas adjacent to such restricted clearance as may be found impracticable of correction."

CONCLUSIONS

It seems that under Section 250, subsection 1, the railways must now provide for a 7-foot head clearance; the other subsections of that section appear to contain nothing which modifies or authorizes any departure from that 7-foot requirement; nor does the Board appear to be empowered by anything contained in subsections (3) or (5) to authorize such departure.

The discretion granted to the Board covering structures constructed prior to February 1, 1904, should not be taken away.

As to side clearances, it appears to be impractical to lay down an inflexible rule. The evidence shows that in some cases there is no room to spread the tracks farther apart and that flexibility in this matter must be permitted.

Paragraph 7 of General Order 236 of the Board deals with the matter of side clearance. Reference may also be made to General Order 345 which makes provision for safe clearance in the movements of trainmen and yardmen in the performance of their duties. If this does not provide sufficient protection, an application can be made to the Board and after hearing the Board may make such Order as is deemed sufficient. This is a much better and more practical

method of dealing with the matter of side clearances than by legislative amendment, as it enables the Board to deal with each case as it arises and retains the obviously necessary flexibility.

19. SAFETY AMENDMENTS PROPOSED

The Railway Transportation Brotherhood proposed that Section 267 of the Railway Act be amended to provide for two signboards instead of one at each crossing, and that they be "reflectorized signboards".

The present section reads as follows:

"Signboards at every highway crossed at rail level by any railway, shall be erected and maintained at each crossing, and shall have the words *Railway Crossing* painted on each side thereof in letters at least six inches in length."

The amendment proposed by the Brotherhood would require that "prominently reflectorized signboards shall be placed on both sides of the crossing".

It seems that this would cause a great deal of additional expense without any appreciable added protection to the public.

20. EMPLOYEES' COMPENSATION IN ABANDONMENT CASES

Section 178 of the Railway Act provides for the making of deviations and changes in railway lines by a Railway Company with the approval of the Board.

The Railway Transportation Brotherhood proposed that Section 179 of the Act, which deals further with the same subject, be amended.

Section 179 now provides as follows:

"The company shall not, at any time, make any change, alteration or deviation in the railway, or any portion thereof, until the provisions of the last preceding section are fully complied with, nor remove, close, or abandon any station, or divisional point nor create a new divisional point which would involve the removal of employees, without leave of the Board; and where any such change is made the company shall compensate its employees as the Board deems proper for any financial loss caused to them by change of residence necessitated thereby."

The proposed amendment would add a new sub-section as follows:

"Whenever the company partially abandons or partially closes any station or divisional point involving the removal of employees resident at such station or divisional point, the Board shall have power to conduct a hearing upon request of the representative or representatives of such employees and to order the company to compensate the employees as the Board 'deems proper for any financial loss caused to them by change of residence necessitated thereby'."

The effect of the present section 179 is to prevent the railway from removing, closing or abandoning any station or divisional point involving removal of any employees without leave of the Board and without proper compensation to the employees.

The amendment proposed by the Brotherhood provides for cases of so-called "partial" abandonments.

Under the proposal it is easy to foresee that many cases of reductions in staff would give rise to controversies as to whether or not they constituted "partial" abandonments. It would be unwise to recommend legislation framed in language of so loose and indefinite a character.

No case of alleged hardship in recent years was brought to the notice of the Commission. The only case referred to took place in 1931 at Big Valley,

Alberta, when the terminal of the Canadian National Railways was allegedly abandoned. To bring out the facts of this case and the treatment received, it will be well to quote from the judgment of the Board, as follows:

"From the above it is clear that the Canadian National Railways have not 'abandoned' Big Valley, in the literal sense of that word. The applicants, however, contend that the retention of these men at Big Valley is mere camouflage and intended solely to escape the effect of Section 179.

"The real point then to be determined in the case is, whether or not the applicants have established their contention in this respect, for I am satisfied that, if such were the case, we would be entitled to hold that within the meaning of the section the terminal had been abandoned."

The spokesman of the Brotherhood said that the object of the proposed amendment is to protect employees against sharp practices by the railways aimed at avoiding responsibility by making actual abandonments appear as being only ordinary operational changes. The Statute in its present form seems to provide adequate protection in such cases.

- No amendment is recommended to Section 179 of the Railway Act.

21. NATIONAL HARBOURS BOARD—PORT ADVISORY COUNCILS

Submissions have been made from three sources requesting that the Commission recommend the appointment of Local Advisory Councils in connection with National Harbours.

The submission of the Transportation Commission of the Maritime Board of Trade stated:

"It can be anticipated that in this postwar period intensified interport competition will exert a tremendous pull in the flow of all available export and import traffic. The welfare of Saint John and Halifax has considerable at stake in the quantum of freight handled through those ports, yet, solicitation and promotional plans, apart from those of the railways (which) service the ports and steamship agents or owners, are wholly in the hands of the National Harbours Board. The existing arrangements and centralized control are not conducive to effective port promotion.

This commission considers it in the best interest of the ports of Halifax and Saint John that the Federal Government appoint local port advisory committees from steamship interests, labour and the municipal authorities for the purpose of formulating plans in co-operation with port management directed to meeting future port requirements, advising management on port matters of mutual interest, and undertaking promotional work within the bounds of a reasonable budget for that purpose."

The submission of the City of Quebec and of the Chamber of Commerce of the city of Quebec may be summarized as follows: that the present administration of the Port of Quebec is unsatisfactory and that the Sir Alexander Gibb Report recommendation with respect to the appointment of local advisory councils be adopted.

The submission of the Halifax Board of Trade stated that the action of the Canadian Pacific Steamships Limited in transferring their steamships from Halifax to Saint John "brings to a climax a situation which demands an immediate review of the position of the Port of Halifax as to its facilities, its services and the steps to be taken which will lead to its future development and prosperity". The submission also stated that the Port is served by only one railroad, namely the Canadian National and that it is unique in this regard. It urged the appointment of a local advisory council as recommended in the Report of Sir Alexander Gibb in 1932.

CONSIDERATION OF THE FACTS

1. *The Port of Halifax*

To deal first with the case of Halifax: The spokesmen for the city say that "the first step in improving conditions here is the appointment of a local advisory port council for this port as recommended in the Report of Sir Alexander Gibb in 1932". This Report says as follows:

"Considerable latitude should be allowed to the port managers so long as their activities are directed to carrying out the policy laid down by the central authority. It is essential to avoid emasculating the local administration, since no centralized control can replace an efficient and active local administration, of the special knowledge and initiative of the local business community, both of which are vital to a port's prosperity.

For this latter reason I strongly advocate a local advisory council. There are very many aspects of port working which such a council can properly care for, such as the representation of the interests of private wharf owners, of local merchants and distributors, of local consignees and exporters, of the labour view, and of the attitude of Boards of Trade, Chambers of Commerce, Corn Exchanges and other such trade organizations, in addition to shipping.

It serves very usefully to identify the community with the port; and to secure the support and interest of local Members of Parliament, the City Council, or provincial government in schemes, and so anticipate and meet criticisms from any such quarters, or action that might be prejudicial to the port.

It is invaluable in exploring the possibilities of local markets, in carrying out advertisement and propaganda and in co-operation with interests likely to promote industrial developments. Finally, a local council provides a useful check on the tendency of more or less permanent officials to become stereotyped or arbitrary.

The port manager would be ex officio chairman of the council, which would meet regularly and be consulted on all such matters as proposed developments, alterations in rates, important changes in operation. The members of the council should have the right of initiating discussions on matters of policy affecting the port, on any complaints raised by users of the port, and on questions of rates, charges, etc.; but not on any purely executive matters and they would have no executive duties or powers.

The advisory council's proceedings and recommendations would be submitted to the central authority; and they should have the right of direct access to the central authority, but not to any other department of government."

Following upon Sir Alexander Gibb's Report Parliament in 1936 passed the National Harbours Board Act, 1936. This Act set up a central authority as the Report recommended, to be called the "National Harbours Board" which is now functioning. The statute does not contain provision for such an advisory council at each harbour as was recommended in the Report. The question of establishing these councils was discussed in Parliament at the time and the Minister of Marine made the following statement:

"There is nothing in this bill which prevents the establishment of local advisory councils if it should be found that they are necessary. But it was considered that the port manager would give all the necessary local contact, and that there would not be need for local advisory councils. But if the need becomes apparent . . . that local councils will be established, which may be carried out under the terms of the bill."

It is to be assumed, therefore, that the Government of Canada has in mind the possibility of appointing local councils whenever in the course of the administration of the National Harbours Board Act it seems advisable to do so. It does not appear proper to conclude, however, that the setting up of such a Board in Halifax would go to any considerable length in meeting what are said to be the requirements of that port. Sir Alexander Gibb's Report in this particular indicates that the local council to which the Report refers is one which would work with the port manager and the central authority (the National Harbours Board)

exclusively. The recommendation states that the port manager is to be the chairman of the council and the council is to have the right of direct access to the central authority only. The proposal submitted on behalf of Halifax goes further and asks that the local advisory council have access to the Minister, and that moreover its members be entitled to travel to Ottawa to see the Minister whenever they judge it convenient to do so, at the expense of the Government. It seems that an organization of this character would become a body operating outside of the central authority and its existence might not be altogether compatible with the proper functioning of the central authority. Moreover, the submission goes on to say "it is essential that the services of a properly qualified individual be engaged whose duty it will be to travel internationally selling the advantages of the Port of Halifax and securing traffic for it". It seems to be implied that the remuneration and expenses of the person in question are to be paid by the Government of Canada. The fact, of course, is, as the submission on behalf of Halifax points out, that the port is not doing the business which those interested in it believe it should do and the Government is called upon to remedy this state of affairs by adopting the measure outlined.

It is not easy to see how the Government could be expected to incur the expenses and set up the port advisory machinery which is suggested for Halifax without being called upon to do the same thing for the other National Harbours. There is no doubt that some of these at least would insist upon similar treatment being extended to them. If all these demands were acceded to the Government would find itself with a number of appointees travelling in foreign countries soliciting business for individual Canadian Ports competing very often among themselves.

What the Port of Halifax needs is, of course, more traffic from and to the port. In so far as export traffic is concerned, it was alleged that the Canadian National Railways diverts a considerable part of its traffic to Saint John instead of Halifax. But it must be remembered that the routing of all railway traffic is fixed by the shipper and not by the railway. The shipper selects the port in which he believes his traffic will be handled the most expeditiously. Among other things this means that the shipper must have a reasonable assurance of his freight being transferred aboard ship with the least possible loss of time. These desiderata can only be brought about by the Port of Halifax being served by steamships and by the other facilities required for expeditious handling of traffic. These requirements are, of course, matters which the local advisory councils recommended to be set up by the Sir Alexander Gibb Report would not be qualified to bring about.

2. The Port of Quebec

The submission made on behalf of the Port of Quebec also asks that a local advisory council be established at the Port in accordance with the recommendation of the aforementioned Report.

Here again it appears that the disadvantage from which the Port of Quebec is suffering is of the same character as that complained of in the case of Halifax; it is the lack of shipping activity in the Port. If anything is to be done to remedy this state of affairs, it must be said, as has been said in the case of Halifax, that the setting up of such a local council as the Sir Alexander Gibb Report describes would not bring about the state of affairs which the Quebec authorities are anxious to secure.

CONCLUSIONS

In view of the character of the needs which appear to exist in regard to the above mentioned ports, it does not appear advisable to recommend to the Government the appointment of the local councils proposed by the Sir Alexander Gibb Report.

In the first place these councils would not meet the requirements of the situation. If they were appointed in one case, similar appointments would have to be made in all ports. In the second place the result of these appointments would probably be disappointing from the point of view of local interests because the Government itself and Government appointees could do nothing to favour any one Canadian Port to the detriment of another or of others.

22. CHIGNECTO CANAL

The Province of New Brunswick stated that the Chignecto Canal should be completed and that it should operate as a toll-free canal. It was stated in the province's brief that it would provide an alternative means of transportation to overcome the difficulties created by long haul railway traffic and that it would develop industry within the province.

The Province of Prince Edward Island also endorsed the proposal that the Chignecto Canal should be completed and similar endorsements were received from the Prince Edward Island Boards of Trade and the Maritime Board of Trade.

The Transportation Commission of the Maritime Board of Trade submitted that "the canal project should again be investigated in the light of changed conditions and circumstances to determine its practicability".

On June 22, 1950, the Chignecto Canal Committee presented a brief to the members of the Federal Government and later submitted the same brief to this Commission. The conclusions set out in this brief are as follows:

"In conclusion we submit the Chignecto Canal should be constructed because:

1. It was understood at the pre-Confederation Conference at Quebec in 1864, and at London in 1866, that the canal would be constructed. The undertaking was given by the delegates of Canada to those representing Nova Scotia and New Brunswick as an inducement for the latter to work for the entry of their province into Confederation.

2. There have been many surveys of the Chignecto Isthmus since 1822 and with only minor differences of technical opinion all surveyors agree on the feasibility of the canal from an engineering standpoint.

3. The four Atlantic provinces—two of which are islands—have transportation problems dual in character. Carriage by sea of their interprovincial and other external trade must be considered as well as transportation by rail. It is vitally important to their economy to shorten the sea routes between trading points and eliminate the circuitous ones.

4. The canal will revive many native industries which flourished decades ago but which were unable to survive the pressure of ever-increasing rail charges. New industries will spring up in the Chignecto area, on both sides of the canal; existing communities will be enlarged and the economy of the surrounding countryside changed for the better. New traffic created will be shared substantially by the railways.

5. The canal will reduce by 300 to 600 miles the present sea distances from Nova Scotia and New Brunswick ports on the Bay of Fundy to the St. Lawrence and the Great Lakes, and consequently lessen transportation costs of commodities moving between these areas. It will facilitate the establishment of new outlets for Maritime produce.

6. It will shorten the distance from Prince Edward Island ports to the substantial markets for the Island's vegetables and fisheries products in the eastern United States, thus cutting transportation charges.

7. Speedy and direct communication by sea will be established between ports in northern New Brunswick and the Bay of Fundy ports which are now separated by the barrier of the 18-mile wide Chignecto Isthmus."

The Committee asked "not that another Royal Commission be appointed to provoke further controversy and delay but, pursuant to the recommendations of the Surveyer Commission, to renew the proposal, in the light of conditions

now existing, to ask that you, with all despatch, have plans and specifications prepared for a modern deep draught canal and commence construction at the earliest possible date”.

PREVIOUS COMMISSIONS

As pointed out in the brief of the Chignecto Canal Committee, the proposal is not a new one. There have been many reports, surveys and commissions. It will be, however, sufficient in regard to the past to consider the report of the most recent commission, namely that of the Chignecto Canal Commission, dated November 9, 1933, under the Chairmanship of Dr. Arthur Surveyer. Its conclusions may be summarized as follows:

- (a) Physically the project is feasible and a canal with locks would be required.
- (b) The cheapest and most satisfactory route available would be that known as the Missiquash route.
- (c) The construction of the canal would not result in any great stimulation of water-borne commerce, but it would result rather in the redistribution of certain present traffic movements in the area immediately tributary to the canal.
- (d) There is a decided difference of opinion as to the value of the project among shipping men, the coastal trade hailing the proposed canal as a boon and those interested in the through business and established connections preferring the present line of communication.
- (e) If viewed merely as a stimulus to present water transport, as affording direct connection between the waters of the Gulf of St. Lawrence and those of the Bay of Fundy, the amount of direct effect and the interests to be served do not justify the expenditure involved.
- (f) As a through maritime highway it would not likely be attractive to shipping in view of the preferable navigation conditions in more open waters. In that connection too much weight ought not to be ascribed to distance.
- (g) A canal at Chignecto would not likely have any bearing whatever on Canada-West Indies trade as it offers no advantage in either time or mileage.

The Commission stated that it “is strongly of the opinion that the proposal to construct a canal at Chignecto offers no national or local advantages at all commensurate with the estimated outlay”.

ESTIMATES OF COST

At the time of the Surveyer Commission estimates of cost were made for two projects: Project Number Three, so-called, being a canal 25 feet in depth with a 125-foot width at the bottom and locks 500 feet by 60 feet. Project Number Seven, so-called, being for a canal 18 feet in depth with a 70-foot width at the bottom and locks 300 feet by 48 feet. The estimated costs for Project Number Three were \$39,000,000, and for Project Number Seven, \$23,000,000. Project Number Three would accommodate freight vessels of the type engaged in the Bay of Fundy gypsum trade in 1933. Project Number Seven would provide facilities for navigation comparable to those provided at the Saint Peter's Canal in Cape Breton.

In December 1949 the engineer who made the estimates for the Surveyer Commission brought these estimates up to date taking into account increased costs, and he estimated the cost of Project Number Three would exceed

\$90,000,000 and Project Number Seven, \$54,000,000. The estimated annual charges for Project Number Three were in excess of $\$6\frac{1}{3}$ millions and for Project Number Seven in excess of \$4 millions.

NEW REASONS ADVANCED FOR CONSTRUCTION OF THE CANAL

In the last few years two new reasons have been advanced for the construction of the canal: (1) as a route to cheapen the cost of the transportation of iron ore from Seven Islands in the Gulf of St. Lawrence to Baltimore, and (2) as a stimulant to trade between Newfoundland and the United States Atlantic ports. It has been pointed out that the actual saving in distance between Seven Islands and Baltimore that would result from the use of the canal is only 140 miles and that when allowance is made for the delays necessitated by the navigation of 30 miles of restricted channel and passage through two locks, the real saving amounts to only 85 miles. Furthermore, the new ore boats used in the trade are of such length, width and draft that a canal to permit the passage of such vessels would have to be at least 36 feet deep with locks 700 feet long and 85 feet wide. The Commission is advised that it is impossible even to approximate what the cost would be of a canal of the dimensions necessary to accommodate these large ore carriers and it is also impossible to imagine that the use of these carriers would be abandoned in favour of smaller ships in order to effect a saving of 85 miles in a total sailing distance of 1,300 miles.

With respect to the Newfoundland trade the actual distance that would be saved by the use of the canal route between St. John's, Newfoundland, and Saint John, N.B., would be 94 miles. When allowance is made for delays due to canal navigation and lockages, the saving in sailing time would be equivalent to 36 miles.

The distance to Boston from St. John's via the canal would be 100 miles greater than via the direct route, and to New York 140 miles greater. The saving in distance between any port on the west coast of Newfoundland to Saint John, N.B., by use of the canal would be 200 miles, but even from these ports no saving would be effected on a voyage to Boston or any point further south.

The economic study of the project made by the Surveyer Commission in 1931 showed that the unit savings in transportation costs were such that to balance the annual charges resulting from the construction of the project the traffic required to make the canal a paying proposition "would have to exceed the maximum annual capacity of the canal".

The estimated annual charges at the time of the Surveyer Commission were approximately $\$2\frac{3}{4}$ million for Project Number Three and \$1.8 million for Project Number Seven. It will be observed that on the basis of 1949 estimates the annual charges have increased nearly threefold.

CONCLUSIONS

It is self-evident that conditions have changed vastly since the reports of the various commissions were made prior to 1931. Traffic now moves in this area by motor truck which was not a factor at the time of the previous reports. Substantially the same conditions pertain now as in 1931 (except that there is now much more truck traffic than at that time) when the Surveyer Commission said that there would be "rather a redistribution of certain present movements in the area immediately tributary to the canal".

There is certainly not sufficient evidence to justify the Commission in recommending a capital expenditure of at least \$100,000,000 with annual charges in the neighbourhood of $\$6\frac{1}{2}$ million, more especially as the canal so constructed might be too small for certain types of traffic. The proposed Chignecto Canal

cannot be compared with canals such as those which exist in the Great Lakes in Canada where there is no alternative form of water transportation and where the traffic is of great volume.

RECOMMENDATION

For the reasons which appear above the Commission cannot recommend the construction of the Chignecto Canal.

23. OPERATION OF PRINCE EDWARD ISLAND CAR FERRY, BORDEN-TORMENTINE

Under the terms of Confederation upon which the Province was admitted to Canada in 1873 are the following:

“Efficient steam service for the conveyance of mails and passengers to be established and maintained between the Island and the mainland of the Dominion, winter and summer, thus placing the Island in continuous communication with the Inter-colonial Railway and the railway system of the Dominion.”

One of the main subjects placed before the Commission by the Province of Prince Edward Island had to do with the car ferry service between Borden and Tormentine which forms the sole connecting rail link with the railway system of Canada. The car ferries operated on the service are owned by the Government of Canada but the management and operation are entrusted to the Canadian National Railways.

The M. V. “Abegweit” is an icebreaker well equipped to handle freight, passengers, automobiles and trucks. An older car ferry, the S.S. “Prince Edward Island” built in 1917, is used to replace the “Abegweit” when the latter is undergoing repairs, and to provide a second service during the congested period of “Old Home Week”, which is one of the major annual events on the island.

The complaints made were:

That one car ferry cannot handle the traffic adequately.

That the Canadian National Railways treats the management and operation of the car ferry “as if it were part of the railway operations”.

This was alleged to have a detrimental effect on traffic to and from the island as hereinafter indicated.

The solutions recommended by the Government of Prince Edward Island were:

That an additional car ferry capable of handling freight, automobiles and trucks is imperatively required;

That the operation of the car ferry service should be transferred from the Canadian National Railways to either the Department of Transport or to an independent ferry commission.

As to the need for a second car ferry the Province submitted extensive evidence showing the increase in the volume of traffic as follows:

Freight Traffic.....	1918 —	10,125	carloads
“ “	1921 —	15,702	“
“ “	1925 —	21,592	“
“ “	1935 —	24,657	“
“ “	1947 —	49,312	“
“ “	1948 —	52,620	“
Passenger Traffic.....	1941 —	157,316	passengers
“ “	1948 —	185,240	“
Automobiles.....	1926 —	4,296	“
“	1941 —	25,093	“
“	1948 —	45,698	“
Trucking.....	1944 —	535	trucks
“	1948 —	4,240	“

There were numerous complaints of delays and particularly of tourists having to wait to get to and from the island because of the inadequacy of the service provided by one ferry.

The Province referred to the findings of the Duncan Commission that the ferry service was unsatisfactory in 1925, and the admission by the railway administration that there was need for supplemental provision being made in the form either of a second ferry boat or of a special freight boat. The recommendation was implemented by the S.S. "Charlottetown" which when lost was replaced by the present M.V. "Abegweit".

The Sirois Commission in 1938 stated that a reasonable ferry service had been provided and reasonable improvements made from time to time. But the provincial government points out that conditions have changed greatly since the Duncan Commission sat in 1925 and the Sirois Commission in 1938. Freight traffic has doubled, passenger traffic has greatly increased and automobile and truck traffic has multiplied many times.

The facts indicate that the representations made by the Province are undoubtedly well founded.

In the final argument Counsel for the Province stated that the position had improved very greatly since the regional hearings of the Commission in Charlottetown. Examples of the improvement were: (1) the "exorbitant rate" charged to trucks had been reduced from \$30 per truck to \$3 one way and \$4 return; (2) the second ferry S.S. "Prince Edward Island" had been put into operation for the summer months to operate from June 15 to September 15, but the Minister of Transport had indicated that if it did not pay its way this might be the end of the operation of the second car ferry during the summer months.

The position taken by the Province is that the operation of the second car ferry during the summer months should be carried on regardless of whether or not it is a "paying proposition"; that it is not a question of commercial operation, but rather one of "service in the national interest".

The Province's contentions were summed up by Counsel as follows:

1. That it is the obligation of the Federal Government to provide ferry service to meet the increased requirements of traffic, and that the recent action taken in 1950 by the Government in providing for the second ferry for the summer months is a partial recognition of the obligation;
2. That the Province by reason of its geographic disadvantages suffers in the way of transportation, and that therefore the Commission should recommend to the Federal Government the provision of a second ferry during the summer months, regardless of whether or not it pays its cost of operation, and that this be made a "permanent policy".

The Province refers to the recommendation of the Duncan Commission that this service "should not be run as part of the railway operations, but should be run by the railway administration under separate account for the department". The Duncan Commission said: "We feel that, by reason of its association with railway accounts, this service does not get the attention it deserves."

CONCLUSIONS

1. The evidence shows clearly: (a) that the ferry service has been too closely tied to railway train schedules; (b) that the ferry service is regarded by the railway administration as a part of the railway service rather than as a transportation service to the people of the Province; and (c) that the attitude of the railway with respect to trucks and buses including the access of these latter to the ferry approaches and the excessive charges made until recently for trucks, is an indication of unsatisfactory conditions.

(*Note:* Since the above paragraph was written, the Commission has received information, of date the 23rd January, 1951, to the effect that the Canadian National Railways has now agreed to remove the pierage charges heretofore imposed upon buses approaching the ferry.)

2. The dependence of the island on the ferry service is such that adequate ferry service must be established consonant with the reasonable requirements from time to time of the traffic to and from the Island to the mainland.

3. This is especially true because of the importance to the Island of tourist traffic which is bound to be hindered if adequate ferry service is not provided in the summer months.

4. The Province has established a clear case of the inadequacy of one ferry during the summer months and an additional ferry capable of transporting automobiles should be operated during the period June 15 to September 15 each year. The guiding principle should not be whether the operation of the second ferry is financially profitable but rather whether the second ferry is reasonably required to meet the demands of traffic. Details of schedules, length of the period of operation and tie-in with train schedules can be worked out after operational experience.

5. There appears to be no doubt that the operation of the Borden-Tormentine ferry service has not been satisfactory in the past.

RECOMMENDATIONS

1. The Commission recommends that adequate ferry service be provided between Borden and Tormentine consonant with reasonable traffic requirements.

2. This will require the operation during the summer months of an additional ferry capable of carrying automobiles.

3. The Federal Government should examine the traffic situation frequently to determine the adequacy of the ferry service.

24. WOOD ISLAND-CARIBOU FERRY SERVICE

AND

PROPOSED WEST POINT-BUCTOUCHE FERRY SERVICE

During the hearings in Charlottetown two briefs were presented dealing with ferry services between the Island and the mainland (other than the Borden-Tormentine route).

The first brief was that of Northumberland Ferries Limited which operates a ferry service between Prince Edward Island and Nova Scotia with termini at Wood Island and Caribou. The complaint is that the present ferry must soon be replaced, that the company is not in a position to finance the new boat, and that additional ferry service is required on this route since at times long lines of traffic to and from the Island are held up. The Company also stated that the harbours at the terminal points needed dredging, that additional aids to navigation were required, and that additional docking facilities and equipment permitting operation of the service at night as a temporary solution to the problem of waiting traffic should be provided. The Company receives subsidies through the Canadian Maritime Commission.

The second brief was that of West Point Ferries Limited, which was incorporated for the purpose of operating a ferry service between Prince Edward Island and New Brunswick with termini at West Point and Buctouche. The Company stated that the Borden-Tormentine route did not adequately serve the western end of the Island, that the Wood Island-Caribou ferry service was of no value to the western section of the Island, and that a ferry service between

West Point and Buctouche would put the west end of the Island in the same position as the east end, give access to wider markets and assist greatly the tourist trade on the Island. The Company made an application to the Canadian Maritime Commission for a subsidy to enable it to proceed with the project but the application was denied. The Company asked the Commission to recommend that a subsidy be granted and stated that the deciding factor should be whether the service is required, and not the cost involved.

The Government of Prince Edward Island in its brief supports the West Point ferry project, and the Boards of Trade of Prince Edward Island endorsed it. The Boards of Trade also stated that the Wood Island service should have larger boats, more frequent, earlier and later crossings, and that there should be pier and harbour improvements at the termini of the Wood Island-Caribou route.

CONCLUSIONS

In each of these cases the main question involved is one of financial assistance. There is a body set up to deal with such matters — namely the Canadian Maritime Commission. There is no doubt that if the public necessity and convenience warrant it that body will deal with the respective applications on the merits of each case with due regard to the cost involved.

No specific recommendation can be made in the case either of the present service being operated between Wood Island and Caribou, or in the case of the proposed service between West Point and Buctouche. Projects of this kind should be considered by the Government of Canada in the light of the great importance of the tourist trade to Prince Edward Island as well as the amount of expenditure involved in the case of each project.

The need for additional facilities at the terminal points is a matter for the consideration of technical experts in the Department of Transport.

25. PROBLEMS OF THE PORT OF LOUISBURG, N.S.

The Louisburg Board of Trade claimed that the Port of Louisburg on the Eastern coast of Cape Breton in Nova Scotia is placed at a disadvantage due to the present rate structure, and the geographic position of the Port in relation to the railways. It was stated that while Louisburg is the only winter port in Cape Breton, its progress has been retarded because of the way in which the railway lines have been built in that territory. It was pointed out that the Intercolonial Railway had built its lines by the northerly route to Sydney, N.S.; that while a survey had been made to build the railway around the Eastern coast it had only been constructed as far as St. Peters, N.S., and that Louisburg is now reached by rail via the Intercolonial line of the Canadian National system to Sydney and thence via the Sydney and Louisburg Railway with added costs. It was also pointed out in connection with shipments to or from Newfoundland that Louisburg is not an alternate port when North Sydney is closed, (as Halifax and Saint John are), because the additional rates of the Sydney and Louisburg Railway prevent the use of Louisburg.

The railway known as the Sydney and Louisburg Railway is not a part of the Canadian National system; it is owned by the Dominion Steel and Coal Company and charges separate rates which are added to those of the Canadian National on through hauls. This railway is subject to the Railway Act, the Maritime Freight Rates Act and is under the jurisdiction of the Board of Transport Commissioners.

The Louisburg Board of Trade suggested that "the area along the Eastern coast of Cape Breton from Little Bras D'Or to Louisburg should be made one zone with one freight rate for incoming and outgoing traffic in this area".

In justification of this suggestion it was further stated that "this zoning system would enable fishermen moving along the coast in this area to load their catch at the most suitable point, and shipping coming on this coast could use the Port of Louisburg without added costs, delays and damage due to ice conditions" and, among other things, "it becomes all the more important that the Port of Louisburg be considered in view of the fact that it is open all the year round and is the only port on this Island where the Newfoundland traffic can be handled when ice conditions make the ports of Sydney and North Sydney inaccessible to the Canadian National Railways ferry service."

CONCLUSIONS

In suggesting one rate zone for the eastern shore of Cape Breton, the Board of Trade overlooks the private ownership of the Sydney and Louisburg Railway. To follow the suggested remedy of one rate group for this territory would mean that Louisburg would have to be included in the Sydney rate group and the Canadian National would have to pay to the Dominion Steel and Coal Company (the actual owner of the railway) the entire revenue of the line. Thus the Canadian National would have to absorb the total cost of making one rate group in this territory. There are about twenty other small railways in Canada, and if the principle suggested by the Louisburg Board of Trade were conceded, it would eventually mean that the Canadian National, or in some cases the Canadian Pacific, would be compelled to absorb the whole cost of reducing the rates of other railways to common rate groups with the two major railways. No such procedure can be recommended. This report deals elsewhere with the question of joint interline rates. It has been pointed out above that the Board of Transport Commissioners has jurisdiction over the Sydney and Louisburg Railway and its rates.

26. PROPOSED RELOCATION OF MONCTON FREIGHT YARDS

In a brief submitted by the Town Planning Commission for the Metropolitan Area of Greater Moncton it was stated that the situation of the railway within the centre of the city constituted a source of smoke, dirt and noise and that the main line of the railway, by virtue of intersections with streets of the city, created ten dangerous level grade crossings (eight in the heart of the city), eleven existing dead-end streets, causing detour of normal traffic flow and restricting the city's growth; two ugly railway-over-street subways and two obsolete street-over-railway bridges.

The Town Planning Commission outlined a plan which they said would gradually remove the existing yard trackage to a new location, do away with the level crossings and dead-end streets, eliminate the smoke, dirt and noise, remove the bridges and eliminate the subways.

It was frankly admitted by the Chairman of the Town Planning Commission that it was a "sweeping plan" but it was claimed that there would be advantages not only to the city but to the railway and that it was really a matter for negotiation with the railway rather than the passing of legislation to remedy the matter. The Town Planning Commission stated that they had neither the funds, the staff nor the resources to investigate the plan and that it required both an economic study and a capital cost study. The witness pointed out that it was a matter involving much more than the Board of Transport Commissioners is customarily concerned with, and said:

"They are concerned generally with the elimination of one or two level crossings and sometimes possibly three in a certain locality, but this is a sweeping plan that involves the elimination of ten at one fell swoop not by grade separation but by moving the main line of the railway."

The Town Planning Commission recommended that the Commission's Report include specific reference to this problem coupled with a recommendation that an official study be undertaken by a "Joint Engineering Investigating Committee" composed of four engineers appointed by the city, the railway, the Board of Transport Commissioners and the Department of Transport, and also that consideration be given to widening the powers of the Board under the Railway Act so that they may be "empowered to investigate or to instigate investigations into matters of this kind and make recommendations for corrective measures to promote safety and convenience and better living conditions in the areas affected".

CONCLUSIONS

It appears that, if a proper case can be made out by any municipality in a matter of this kind, and it can be shown that the plan proposed would be advantageous to both the community and the railway, the subject should become one of negotiation between the two parties involved rather than a matter of legislation.

As to the proposal for a joint engineering investigating committee, there is no doubt that the assistance of engineers would necessarily be a part of any negotiations to be carried on.

27. THE SAINT JOHN GATEWAY

Before the Intercolonial Railway became part of the Canadian National Railway System shippers had the privilege of routing traffic from originating points on the Intercolonial in the Maritime Provinces to Canadian destinations on the Canadian Pacific Railway via Saint John, New Brunswick, and Ste. Rosalie, Quebec. The Maritime Board of Trade stated that this privilege gave persons and industries located in the Maritimes an opportunity to have their traffic follow alternative routings. In 1925, after the Intercolonial became a part of the Canadian National Railway System, the Canadian National Railways cancelled the alternative routings provided in certain tariffs. This virtually cut out the Saint John Gateway on westbound traffic as the Canadian National hauled over its own lines substantially all the freight originating on the lines of its system in the Maritime Provinces destined to points competitive with the Canadian Pacific. In making this change the Canadian National Railways merely followed the practice of other railways on the continent of hauling traffic originating on its own lines as far as possible before handing it over to another carrier.

However, the Board, upon complaint of certain Maritime interests, suspended the tariffs of the Canadian National which had cancelled alternative routings via Saint John and Ste. Rosalie. (1926, 32 C.R.C. 37.)

Upon the enactment of the Maritime Freight Rates Act in 1927, which required the substitution of new tariffs on July 1st of that year, the Canadian National again filed tariffs omitting alternative routings to points competitive with the Canadian Pacific.

This action on the part of the Canadian National was followed by an application by the Maritime interests to the Board, the substantial objective of which was to restore the alternative routing privilege as it had existed before 1925. The Board ordered accordingly.¹ The Supreme Court held on appeal² that the Board had no jurisdiction under the Act to order rate reductions on freight routed to points west of Montreal from points on the Canadian National Railways (on which reductions are compulsory) via Saint John and thence over the Cana-

¹ C.N.R. v. Nova Scotia 1927, 34 C.R.C. 207.

² C.N.R. v. Nova Scotia 1928, S.C.R. 106.

dian Pacific Railway (on which deductions are only optional), but may order reductions on freight routed via Ste. Rosalie which is a junction point of the Canadian National Railways.

The Maritime Board of Trade referred to the Report of the Duncan Commission which said that the question of the retention of open gateways at Saint John and Ste. Rosalie Junction was still open for review by the Board. They argued that there is no indication that such a withdrawal of routing privileges was intended to be effected in the recommendations of the Duncan Commission. The Maritime Board of Trade accordingly submitted an amendment to Section 9 of the Maritime Freight Rates Act which would have the effect of enabling the Board to order alternate routings via Saint John or Ste. Rosalie.

The amendment proposed by the Maritime Board of Trade to Section 9 of the Maritime Freight Rates Act, in so far as it affects the present question, reads as follows:

“Add a new Subsection 5 to read:

‘5. Where freight traffic similar to the preferred movements under this Act moved over any continuous route provided by any joint tariff of tolls or rates that existed prior to the coming into force of this Act, such traffic shall be deemed to be preferred movements if other companies owning or operating lines of railway in, or extending into, the select territory meet the statutory rates referred to in Section 7 of this Act.’

“Add a new Subsection 6 to read:

‘6. The Board on the application of any company or person desiring to forward traffic over any continuous route in the select territory and involving movements similar to preferred movements which the Board considers a reasonable and practicable route, or any proportion thereof, may recommend a joint toll or tolls subject to this Act for such continuous route on acceptance of the application of this Act by the other companies defined under this Section, and in the event of the failure of the companies to agree on the apportionment the Board may, by order, apportion the toll or tolls and may determine the date when the toll or tolls shall come into effect.’”

The Canadian Pacific Railway favours the proposed amendment.

The Canadian National Railways strongly oppose the amendment on the following grounds:

- 1st. At the present time traffic originating at Canadian National points destined to points on the Canadian Pacific west of Montreal can only be routed via the Ste. Rosalie Gateway, but if an alternative routing via Saint John were permitted the shipper could give the short haul to the Canadian National and the long haul to the Canadian Pacific;
- 2nd. It is a principle of railway practice recognized in Canada and the United States that a railway should not be compelled to short-haul itself;
- 3rd. The matter of gateways is a large question and should be considered as a whole; it is not fair or just to consider one instance by itself as there are many situations where the Canadian National Railways is placed at a disadvantage as the Canadian Pacific Railway is placed here. It would require considerable study and much evidence of a technical nature before any recommendation could properly be made;
- 4th. There is no evidence which would justify a recommendation of the proposed amendment;
- 5th. It would divert traffic from the Canadian National, which that Company now has, to the Canadian Pacific; and
- 6th. The matter of gateways is one for the Board to deal with.

CONCLUSIONS

It is apparent from the decision of the Supreme Court of Canada, *C.N.R. v. Nova Scotia*, 1928, S.C.R. 106, that as the Act presently stands the alternative routing cannot be ordered by the Board and the Canadian Pacific Railway enabled to obtain the subsidy payable under the Act.

If the gateway were opened the Canadian National Railways could be compelled to short-haul itself.

The amendment to the Maritime Freight Rates Act proposed by the Maritime Board of Trade is not recommended.

28. EXTENSION OF SCHEDULE "A" OR TOWN TARIFF RATES TO NORTHERN ONTARIO

As explained in the section entitled "Distributing Rates" a scale of such rates, also known as "Schedule 'A' Rates" or "Town Tariff Rates", is in effect between the larger cities of Ontario and Quebec and points in the territory bounded on the west by Windsor, Ontario, on the east by Montreal, Quebec, and on the north by a line drawn from Montreal to Sault Ste. Marie, Ontario.

The scale also applies locally on the Ontario Northland Railway, which is owned by the Province of Ontario but is not subject to the Railway Act nor the Board of Transport Commissioners except for a small portion of the line entering into the Province of Quebec. The Schedule "A" scale however does not apply jointly between other railways and the Ontario Northland Railway.

The Schedule "A" rates were prescribed by the Board in the so-called International Rates Case in 1907 and approximated the level of rates on the American lines in that year between Detroit and Port Huron, Michigan, and Buffalo, New York and points in Canada, on the ground that Canadian shippers should enjoy the same rates as the Canadian railways were according to American shippers. Since the American lines themselves penetrated Canada in Southern Ontario and as far as Cornwall and Ottawa, Ontario, and Montreal, Quebec, it was this competitive situation which led the Board to remove the discrimination in 1907 between the international and local Canadian rates. The territory in which these rates applied was confined to points on and south of the Ottawa River, but was extended in 1922 to Sault Ste. Marie, Ontario.

North and west of the territory described, the rates to and from Southern Ontario and Montreal were made by "arbitraries" over North Bay in some cases, and in other cases on a basis which approximated the standard mileage rates.

The Ontario Mining Association complains of the high freight rates in the latter territory on explosives, iron and steel and chemicals—all carried at class rates or at commodity rates related to class rates. The Association refers to the principle of equilization of rates, in this case between Northern Ontario and Southern Ontario. It submits comparisons showing the rates from Montreal to the Northern Territory which are from 9.4% to 38.5% higher than from Montreal to Southern Ontario.

The Association makes the following observations and recommendations:

"It appears to us that the time has long passed since the railways should have been giving attention to the extension of the Southern Ontario basis to other points in the Province. The expansion of industry and of agriculture has been so vast since the Schedule 'A' basis was established in 1907 and even since its extension in 1922, that a widening of the scope of this scale appears to be now warranted."

As to the rates to the Ontario Northland Railway the Association states:

"To points on the Ontario Northland Railway, Schedule 'A' rates are exceeded by as much as 46% but these rates are not submitted for your consideration as we understand your inquiry is restricted to matters of transportation under Federal jurisdiction. However, in this connection, we draw attention to the fact that, as far as joint rates to Ontario Northland Railway points are concerned, the participating railways including the provincially owned Ontario Northland Railway, are not subject to the Board of Transport Commissioners for Canada, an anomaly which appears manifestly unjust."

CONCLUSIONS

With respect to joint rates, between the railways now subject to the Railway Act, and the Ontario Northland Railway, the position is as stated by the Association; as the Board has no jurisdiction over the Ontario Northland Railway it has, of course, no power to prescribe lower through rates, even though it has jurisdiction over the other railways. There is no recommendation to be made on this subject.

CHAPTER VI

RECAPITALIZATION OF THE CANADIAN NATIONAL RAILWAYS

Paragraph 2(c) of Order in Council P.C. 6033, directed the Commission to:

“Review the capital structure of the Canadian National Railway Company and report on the advisability, (or otherwise), of establishing and maintaining the fixed charges of that Company on a basis comparable to other major railways in North America.”

A. CAPITAL STRUCTURE OF CANADIAN NATIONAL RAILWAYS AS AT 31ST DECEMBER, 1949

The capital structure of the Canadian National Railways as at 31st December 1949 may be summarized as follows:

<i>Long Term Debt</i>	
Funded debt held by public.....	\$ 612,380,194
Funded debt held in special funds (made up mainly of Pension and Insurance Funds).....	12,485,725
Total funded debt.....	624,865,919
Capital stocks of subsidiary companies held by public.....	4,560,290
Total of system securities held by public or for special funds.....	629,426,209
Government of Canada — Loans.....	743,661,161
Total debt and system securities exclusive of proprietor's equity securities.....	1,373,087,370
<i>Proprietor's Equity — Government of Canada</i>	
1,000,000 shares of no par value capital stock of Canadian National Railway Company.....	18,000,000
5,000,000 shares of no par value capital stock of the Canadian National Railways Securities Trust.....	378,518,135
Capital Expenditure by Government of Canada on Canadian Government Railways.....	377,930,580
Total Proprietor's Equity.....	774,448,715
Total debt, system securities in hands of public, and proprietor's equity.....	\$2,147,536,085

Attached as Appendix “A” is a condensed statement of earnings as shown by the Company's financial statements for the years 1923 to 1949 inclusive.

B. FIXED CHARGES

“Fixed charges”, when applied to railroad accounts, has a very specific meaning as a result of the Accounting Classification for Steam Railroads, issued by the Interstate Commerce Commission, and which is used not only by all Class I railroads in the United States but has been adopted in large part by the Canadian National Railways and the Canadian Pacific Railway Company.

Under the form of income statement which is laid down in this accounting classification, the following items are included under the heading of “Fixed Charges”:

1. Rent for leased roads and equipment
2. Interest on funded debt
 - (a) Fixed interest not in default
 - (b) Interest in default
3. Interest on unfunded debt
4. Amortization of discount on funded debt.

As will be seen from the following summary of fixed charges of the Canadian National Railways for 1948 and 1949, rents for leased roads and amortization of discount are relatively unimportant and it would appear that the Order in Council has reference to interest charges on borrowed capital.

	1949	1948.
Rent for Leased Roads and Equipment.....	\$ 699,844.10	\$ 720,599.32
Interest on Unfunded Debt.....	333,994.64	282,713.40
Amortization of Discount on Funded Debt.....	1,497,122.72	508,564.04
Interest on Funded Debt — Public.....	24,302,650.99	23,202,817.69
Interest on Government Loans.....	21,798,283.58	21,627,032.82
	<u>\$48,631,896.03</u>	<u>\$46,341,727.27</u>

C. HISTORICAL ORIGIN OF CAPITAL STRUCTURE

A concise history of the formation and the original composition of the Canadian National Railways is set out in the company's Submission (Exhibit 214) and is quoted hereunder:

"Canadian National Railway Company was incorporated by Chapter 13 of the Statutes of 1919. The preamble to the Act states that whereas His Majesty had acquired control of the Canadian Northern Railway System, it is expedient to provide for the incorporation of a company under which the railways, works and undertakings of the companies comprised in the Canadian Northern System may be consolidated and together with the Canadian Government railways operated as a national railway system. By Order in Council P.C. 2094, dated October 4, 1922, directors of Canadian National Railway Company were nominated. By Order in Council P.C. 115, dated January 20, 1923, the management and operation of Canadian Government railways was entrusted to the Canadian National Railway Company. By agreement dated January 30, 1923, approved by P.C. Order 181, dated January 30, 1923, the Grand Trunk Railway Company was amalgamated with the Canadian National Railway Company. The Grand Trunk Pacific Railway System which was fully controlled through stock ownership by the Grand Trunk Railway is now fully controlled by stock ownership by the Canadian National Railway Company. Under the Canadian National Capital Revision Act of 1937 the capital stock of the Canadian Northern Railway Company was transferred from the Government to the Canadian National Railway Company and therefore is now fully controlled by that Company through stock ownership. The situation therefore is that the Canadian National Railway Company has absorbed by amalgamation the Grand Trunk Railway Company of Canada, it controls the Canadian Northern and Grand Trunk Pacific Systems through stock ownership and has been entrusted with the management and operation of the Canadian Government Railways. These four principal railways including their subsidiaries are generally referred to as Canadian National Railways or Canadian National Railways System. Operations as a unified system commenced January 1st, 1923."

The capital structure of the Company was drastically revised as a result of the Capital Revision Act (1937). As stated in the Canadian National Railways' brief, this Act did not deal with the large funded debt of the system in the hands of the public but was a revision of the relationship between the Government and the Canadian National Railways. The following is a portion of the explanatory statement made by the Right Honourable C. D. Howe, Minister of Transport, before the Standing Committee on Railways and Shipping owned, operated and controlled by the Government, on February 18, 1937:

"For the information of the Committee, I submit a brief outline of the provisions of Bill No. 12.

"This is a measure to authorize, along constructive lines, reasonable adjustment of the present unbalanced and excessive capitalization of Canadian National Railways. The adjustment confines itself to the relationship between the Government and the railway and does not deal, in any way, with the funded debt of the railway in the hands of the public.

"As between the Government and the railway, the plan preserves in full all capital sums invested by the Dominion in the railway: any amounts to be eliminated relate to losses in operation and interest charges. Worthless capital stocks are to be written off on the basis of arbitration awards.

"At various times the proposal for C.N.R. capital adjustment has been attacked, particularly on the ground of its being some sort of an attempted deception of the people of Canada and as doing violence to the principles of sound finance. Such criticism is without foundation and obscures from the people of Canada the true purpose of the plan with its ultimate advantages to the Dominion and the railway. It ignores the expressed views of competent and impartial tribunals as well as the terms of the financing legislation since 1932. It runs counter to the usual financial and accounting practices of corporations under similar conditions. Further, this criticism refuses to recognize the effect of the events of the last twenty years on present day realities, in that the position of the Dominion has come to be essentially that of shareholder and proprietor in the Canadian National Railways—not of creditor in the ordinary sense.

"At a later point in my remarks I shall deal more specifically with these matters.

"2. Summary of Adjustments

"The main purposes of the capital adjustment plan are:

"First: to eliminate duplication of liabilities and losses of some one billion five hundred million dollars between published accounts of the National Railway System and those of the Dominion as shown by Public Accounts.

"Second: to centralize the corporate stock control by the Dominion of all companies now comprising the National Railway System through one company, i.e. the Canadian National Railway Company. This preliminary step is correlated to

- (i) the legal amalgamation of certain constituent companies of the system with a view to effecting ultimate savings in accounting and other costs, and
- (ii) the unification of certain funded debt issues of the National Railways through refunding issues in the name of the parent corporation, Canadian National Railway Company, for the purpose of bringing about savings in interest and other costs.

"Third: the elimination from the corporate books of those capital stocks determined by arbitration tribunals to be without value.

"Fourth: the preservation through the Securities Trust of the priority rights of the Dominion in respect of certain unguaranteed securities and subsidiary company capital stocks held by the public.

"The proposed revision of the railway balance sheet does not in any way increase the net debt of Canada as shown by Public Accounts. This is because the relative capital stocks (as written down) were acquired without cash payment by the Dominion and because the old debentures, the loans applied for both capital and deficits, the accrued interest on loans and the appropriations for Canadian Government Railways capital investment have already been embodied in the net debt of Canada.

"A condensed summary of the consolidated balance sheet revision, on the basis of the 1936 accounts, is as follows:

Write-down of capital stocks and old debentures by concurrent reduction of property accounts.....		\$ 262,770,972.03
Elimination of loans applied for deficits by concurrent reduction of deficit account.....	\$373,823,120.38	
Elimination of accrued interest on loans by concurrent reduction of deficit account.....	530,832,597.67	904,655,718.05
Total reduction in Capital and liabilities.....		<u>\$1,167,426,690.08</u>

"In addition to the above, the adjustment plan includes the transfer from 'Liabilities' to 'Dominion Government—Proprietor's Equity' of the following:

Loans applied for capital purposes — represented in the five million shares of capital stock of the Securities Trust.....	\$270,037,437.88
Appropriations for Canadian Government Railways capital investment....	388,290,263.52
	<u>658,327,701.40</u>
Transfer of residual value of Canadian Northern capital stock to the Canadian National Company and the issuance by the latter of its capital stock.....	18,000,000.00
Total of 'Dominion Government-Proprietor's Equity' preserved on the Consolidated Balance Sheet.....	<u>\$676,327,701.40</u>

"It is important to note that any capital investments by the Dominion are continued, at the face value, on the balance sheet without diminution; the amounts eliminated in connection with loans having to do only with the sums lost in operation and accruals of interest."

As stated in the foregoing the "Proprietor's Equity" as at the 31st December 1949 was \$774,448,715.00. The increase of \$98,121,014.00 since the 1937 revision is made up of the following:

Increase in the value attributed to the Canadian National Securities Trust.....	\$108,480,697
Represented by	
Surplus earnings capitalized 1941 to 1945, inclusive.....	\$112,502,061
Less—net capital losses.....	4,021,364
	<u>\$108,480,697</u>
Less—net reduction in value of Capital Expenditures by Government on Canadian Government Railways.....	10,359,683
	<u>\$ 98,121,014</u>

D. PROPOSALS

1. Canadian National Railways

In the brief submitted by the Canadian National Railways, the following recommendation appears:

"To achieve comparability of fixed charges with other major railways but excluding relief in respect of the lines operated in the public interest, that portion of the bonded indebtedness of the Canadian National as is held by the Government should be converted to equity capital. To provide the relief required in respect of the lines operated in the public interest, the publicly held bonded indebtedness of the Canadian National should be assumed in whole or in part by the Government or alternatively relief should be provided by such other action as can best be adapted to the needs of the situation."

In the statement submitted by the President of the Company, the original proposal is expanded and amended and the following specific proposal is made:

"It is submitted that by ordinary commercial standards, the entire interest-bearing capital should be converted to equity capital. However, in view of the practical difficulty in the way of converting the interest-bearing capital in the hands of the public into equity capital at this time; and having regard to the potential earnings of Canadian National System, which are considerable and may in some degree offset the adverse factors here considered; and on the assumption that the present imbalance which exists between railway rates and railway costs will be removed by adequate rate increases, I submit the following as an appropriate adjustment:

- (1) The \$760,000,000 of interest-bearing obligations held by the Government should be exchanged for equity capital and reflected in the balance sheet as such.
- (2) The Government should acknowledge an indebtedness to Canadian National in the amount of \$300,000,000 to bear interest at 3% until discharged. This would

be set up in the accounts of Canadian National as a capital fund to be drawn on from time to time to retire interest-bearing obligations in the hands of the public or for capital additions to the property. As consideration for the acknowledgement of the indebtedness aforesaid, Canadian National would issue a commensurate amount of equity stock to the Government.

- (3) Future development lines should be financed to the extent of not more than 60% by interest-bearing securities, the balance to be supplied by the Government against the issue by Canadian National of a commensurate amount of equity stock.

"It is my considered opinion, concurred in by the Board of Directors, that nothing short of these measures can be deemed adequate treatment of the capital structure of Canadian National. These measures, if put into effect, should enable Canadian National, on the average, to meet its fixed charges, including interest on funded debt.

"I submit very earnestly that the adjustment of the capital structure of Canadian National is long overdue and that for the reasons set forth in the Submission filed by Canadian National with you in October last, as well as for the further reasons already presented and to be presented during the course of these sittings, your Commission should recommend that it should now be adjusted."

In his introductory remarks the President also made the following statements:

"At the same time the financial results of the Canadian National distort the true efficiency with which the System's operations are conducted. It is urgent that the true operating results be clarified."

"A realistic capitalization of the Canadian National must of necessity be related to its future earning power. The historical record is only of value as offering some basis for forecasting future results. The earning power of the Canadian National from 1923 to date shows wide fluctuations. In some years earnings available for interest charges and other corporate needs have been substantial. In some other years, although there has been an operating surplus, there has been a deficit even before fixed charges. It is significant that the periods of high earnings were short-lived and came under boom or war conditions. They are therefore not to be taken as indicative of the situation which could be expected to prevail normally or in the future. Moreover, during periods of low traffic, maintenance costs were reduced to some extent at the expense of the property and therefore the historical record overstates its earning power."

"Future operations will be burdened to some extent by the deferred maintenance of property and the deferred renewal of equipment resulting from war services of the System. While, during the period of high earnings, reserves were set up to meet such expense, they have been seriously depleted by postwar inflation. Due largely to inflation, rolling stock of the System stands in the accounts at figures far less than replacement cost. As a consequence, as replacements occur there will be an inflation of capital which, in turn, will adversely affect earnings through increased depreciation and interest charges, even when due allowance is made for the fact that the new equipment will be of an improved design, have greater usefulness and be more economical to operate than the equipment being replaced."

The President states that after careful study he has come to the conclusion that to show results which would meet commercial tests, the amount of interest-bearing capital which should be included in the capital structure should be of relatively small proportions in contrast to the present total of \$1,344,000,000. He further discusses at some length what he terms the excessive capital burden of the Canadian National Railways summarized as follows:

"Interest-bearing obligations assumed with acquisition of insolvent railways	\$ 804,000,000
Run-down and semi-finished condition of properties taken over	100,000,000
Co-ordination costs	290,000,000
Canadian Government Railways	135,000,000
Effect of Acquisition of unremunerative lines in National interest	170,000,000
Effect of Development lines	34,000,000
	<hr/>
	\$1,533,000,000

"This statement evidencing excessive capital debt burden of \$1,533,000,000 (which is in excess of the Fixed Charge Debt of Canadian National of some \$1,344,000,000) supports the conclusion that an undue proportion of the capital invested in the Canadian National system is represented by interest-bearing securities."

The effect of the Company's proposals on the 1948 figures of the Canadian National Railways, which are those referred to in the Company's submission and in the President's statement, would be to reduce the interest charges for the year from \$44,829,000 to \$14,202,000; that is, by a sum of \$30,627,000.

2. *The Canadian Federation of Agriculture*

The Canadian Federation of Agriculture made the following recommendation:

"We recommend that the amount of the 'Loans for repatriation of U.K. securities' and 'Loans for debt redemption' (\$670,365,090) be entered in the Proprietor's Equity (Government Equity) of the liabilities as additional securities trust stock, and the Government cancel these outstanding interest-bearing securities. The balance of the government-held debt would remain as railway debt."

3. *The Canadian Pacific Railway Company*

The Canadian Pacific Railway Company made the following general statements regarding the revision of the Canadian National Railways capital structure in its main submission (Exhibit 139A):

"54. Canadian Pacific has no direct interest in the financial affairs of Canadian National. It believes that the present management of Canadian National has achieved a high degree of efficiency in the operation of the railways committed to its charge. Any measures designed to provide an incentive to continued and increasing efficiency on the part of the Canadian National or any other railway are desirable. Nevertheless Canadian Pacific would be deeply concerned in any reduction in the fixed charges of Canadian National unless the principle is recognized that Canadian National should be permitted to earn a reasonable return on a reasonable level of railway property investment.

"55. Canadian Pacific as a privately-owned enterprise, is competing with Canadian National as a government-owned enterprise. Heretofore, Canadian Pacific has been the yardstick accepted by the Board in fixing the level of freight rates in Canada. It has no desire to exclude Canadian National as an element to be considered in fixing freight rates but it points out that unless rates are fixed at such a level as will enable Canadian Pacific to earn sufficient to provide a reasonable return on its property investment, it can no longer as a privately-owned enterprise attract to it the capital needed in its business. A reduction in the amount of the fixed charges of Canadian National, unaccompanied by some statutory assurance that its permissible earning power as a railway would not thereby be reduced, would offer a serious threat to the ability of Canadian Pacific to continue to function as a privately-owned railway system."

The Canadian Pacific Railway Company called three witnesses in connection with the Canadian National Railways recapitalization proposals. One of the witnesses recommended:

1. That the imbalance between revenues and the increased costs of labour and materials should be lessened as much as possible by further freight rate increases.
2. That \$391 million of interest-bearing obligations held by the government, which were issued in connection with the repatriation from the United Kingdom of C.N.R. securities, should be exchanged for income bonds in accordance with the suggestion of Mr. R. C. Vaughan and so reflected in the balance sheet.
3. That the acknowledgement of an indebtedness by the Government to the C.N.R. of \$300,000,000 should not be considered.
4. That future development lines other than those created for national policy reasons should, like all other additions and betterments, be financed in the normal commercial manner, and those created for national policy reasons financed entirely at government expense and their operations segregated as a government enterprise until they become commercially sound or become an integral part of the system.
5. That a portion of surplus earnings, after payment of interest fixed and contingent, should be retained to provide funds for improvements and betterments and the balance paid to the government as a return on its equity capital."

The Provinces did not make any definite recommendations on a revised capital structure for the Canadian National Railways.

E. CANADIAN NATIONAL RAILWAYS SECURITIES TRUST

The submission of the Canadian National Railways outlines the reasons for the creation of the Canadian National Railways Securities Trust, and its relation to the Railways. This submission may be summarized as follows:

The Securities Trust is a corporation created by Section 12 of the Canadian National Railways Capital Revision Act 1937. Its entire capital stock is held by the Minister of Finance on behalf of His Majesty. The stock was issued in consideration of the transfer to the corporation by the Government of its claims against the Canadian Northern, Grand Trunk and Canadian National Railways for loans and accrued interest thereon.

The Trust was created for the purpose of acquiring and holding the Government claims against the railway corporations in the same way and with the same rights as if they had been held by the Government. There were certain securities held by the public (now amounting to \$4,560,290) which it was considered might be improved or advanced in their ranking or priority if the Government claims against the various railway companies were cancelled.

Since the formation of the Securities Trust, a substantial portion of the Railways' securities has been retired, and as a result of this large debt reduction the securities held by the public have little significance in the over-all picture.

It is considered that the purposes for which the Trust was created could now be served just as effectively if the capital stock of the Trust were held by the Canadian National Railways rather than by the Government, and that such a procedure would simplify the capital structure of the Canadian National Railways without impairing the safeguards provided in the original arrangement or without changing the Government's interest in the Railways.

The submission recommends that the 5,000,000 no par value shares of the Securities Trust which are now held by the Government be turned over to the Canadian National Railways in exchange for an equivalent number of no par value shares of the Railway Company.

F. WHAT USEFUL COMPARISONS, IF ANY, CAN BE MADE IN THE CAPITAL STRUCTURE OF THE CANADIAN NATIONAL RAILWAYS, A GOVERNMENT-OWNED ENTERPRISE, AND PRIVATELY-OWNED RAILWAYS?

It is not clear from the terms of the Order in Council what is meant by comparability with the other major railways in North America. Comparisons can be and are made of fixed charges and funded debt on any one of the following bases:

- (a) The relationship of funded debt to the total capital structure of the company;
- (b) The relationship of the funded debt to the investment in railway property;
- (c) The relationship of fixed charges to gross earnings;
- (d) The relationship of fixed charges to earnings available to pay such charges.

Any one of these comparisons or a combination of them is useful and important when dealing with the capital structure of private corporations.

The Canadian National Railways, in its submission, and throughout the evidence of its witnesses, as well as in the arguments of Counsel, has dealt exhaustively with comparisons between the fixed charges and the funded debt of the Canadian National Railways and the Canadian Pacific Railway Company and certain Class I United States roads.

The Canadian National Railways dealt at length with the reasons for its present financial situation.

It is stated that the reasons for the difficulties are threefold:

- “(1) The Canadian National is burdened with excessive fixed charges.
- (2) The Canadian National is obliged in the public interest to operate, without due compensation, as a matter of national policy and as an instrument of national development, considerable mileage of marginal and non-paying lines.
- (3) Railway tariffs of rates and tolls have not kept pace with increased costs of labour and materials.”

These reasons do not appear particularly important in considering a revision of the capital structure of the Canadian National Railways (if that is deemed desirable) except to the extent that the Commission can learn from the past and avoid making changes which will be classed as mistakes by future generations. The Commission is not required to correct what are alleged to be past mistakes but rather, if it should be considered advisable, to suggest some revision of the present capital structure of Canadian National Railways and of its fixed charge burden, having regard to existing conditions and its earning power.

While it is not proposed to review here the arguments regarding the alleged mistakes of the past and in particular of saddling the Railways with \$804 millions of interest-bearing obligations at the time of the consolidation in 1923, it is nevertheless interesting to note that at the time these obligations were assumed by the Canadian National Railways, that company set up on its books an investment in road and equipment of \$1,801,583,000 for the Grand Trunk, Grand Trunk Pacific, Canadian Northern and Canadian Government Railways. While nothing was submitted to indicate what value should have been attributed to the investment in road and equipment of the above railways, it must be assumed that they had and have a substantial value.

The duty of the Commission after reviewing the capital structure, is to report on the advisability or otherwise of:

- (a) Establishing the fixed charges of the Railway on a basis comparable to other major railways in North America, and
- (b) Maintaining the fixed charges on a basis comparable to other major railways in North America.

The Canadian National Railways holds a position which is different from that of any privately-owned company. It would appear that the officials of the company subscribe to this view, as evidenced by the following statements in its brief:

“The Canadian National as a Government-owned System occupies a special place in the national economy. It is today in large measure the pioneering railway of the country. It embraces in its operated mileage, thousands of miles of what may well be called pioneering railways. It bears a large share of responsibility in the development of national resources.”

“Why Government money invested in the Canadian National which does not earn a direct interest return is regarded in some quarters as money lost is difficult to understand. A more correct view would be to regard it as an investment, furnishing essential transportation service, and gainfully employed from the standpoint of the over-all economy.”

“Applying such an adjustment of \$20,000,000, surpluses would have been enjoyed during the years 1925 to 1929 inclusive reaching a high of twenty-three odd million in 1928. In these circumstances lower freight rates following pressure for downward revision would probably have very considerably reduced if not entirely eliminated such surpluses.”

The foregoing would seem to indicate that in the view of the Canadian National Railways a capital revision on the basis recommended would not result in the earning of a surplus as the public would demand lower freight rates or, in other words, that no Government-owned railroad is entitled to earn any substantial surplus.

The brief contains the following statement:

"In addition, as mentioned elsewhere, the Canadian National operates in the national interest on a basis which cannot be justified commercially, very extensive lines of railway required for strategic, colonization, agricultural and development reasons."

All the emphasis in the submission of the Canadian National Railways is placed on achieving a comparable position with other Class I railroads as regards fixed debt. No account appears to have been taken of the fact that in the case of privately-owned and operated railways equity capital and the cost of servicing it plays a very important part in corporate financing.

Furthermore, on the basis of the above quotations it would appear as if the company recognized that there were very real differences between the aims and objects of a Government-owned enterprise operating "in the national interest on a basis which cannot be justified commercially, very extensive lines of railway required for strategic, colonization, agricultural and development reasons" and a privately-owned railway which must be operated at a profit if it is to survive.

In all comparisons which have been made by the Canadian National Railways, emphasis has been placed upon the fixed charges relating to fixed or funded debt and little, if any, account has been taken of (1) income taxes which are payable on the operating profits of private companies or (2) the necessity of such companies to show earnings on their equity capital in order to finance that part of the cost of the system which has not been financed by funded debt.

G. ARGUMENTS IN FAVOUR OF ESTABLISHING AND MAINTAINING FIXED CHARGES OF THE CANADIAN NATIONAL RAILWAYS ON A BASIS COMPARABLE TO THOSE OF OTHER MAJOR RAILWAYS

The arguments in favour of a reorganization of the capital structure of the Canadian National Railways and a scaling down of its fixed charges were set forth in the submission of the Company, and were discussed by the Railways' witnesses. As the evidence of the witnesses was in the main an enlargement and explanation of the statements in the brief, the following quotations have been taken from the Railways' submission as a concise expression of its views on the subject:

"The adjustment proposed would not cost the Government any money. As the sole shareholder any gain or loss is for account of the Government. In the final analysis a fixed interest rate is meaningless since if there is a deficiency it must be provided by Government and likewise Government will take any surplus there may be after payment of interest on the publicly held debt. It is more a matter of removing from railway to public accounts the extent to which commercial considerations have been subordinated to considerations of broad national policy."

"If it is sound policy to get debt and fixed charges down to manageable proportions, which other railways are doing, and which policy is fostered by the U.S. Government regulatory authority, then the Canadian National also should be given an arrangement under which this might possibly be done."

The following is a summary of certain points raised in the Company's submission:

- (1) The value of the Canadian National Railways to the national economy is obscured by its unfavourable financial results, which in large part arise from an excessive debt burden taken over at the date of the company's organization.
- (2) Prior to 1923, capital expenditures of the Canadian Government Railways had been financed by Parliamentary appropriations and interest charges absorbed in public accounts. Subsequent to that date, such expenditures were financed by the company and interest charges included in the company accounts.
- (3) The Capital Revision Act of 1937 dealt only with debts due to the Government, and from 1932 interest has been paid on all capital loans.
- (4) In the period 1923 to 1931, \$456,345,000 was expended for investment purposes and financed by the sale of bonds to the public. By 1931, annual interest charges had reached a total of \$55,587,000 and no portion of this was reduced by the Capital Revision Act of 1937.
- (5) The book value of the Canadian National Railways investment in road and equipment per mile of line was \$88,769 at 31st December, 1947, (\$91,847 at 31st December, 1948). These figures are about 30 per cent less than the average United States Class I roads and about equal to those of the Canadian Pacific Railway Company.
- (6) Railroads of the United States have followed a policy of reducing funded debt and interest charges through utilization of surplus earnings and by receivership proceedings during the period 1923 to 1947. A similar procedure was not open to the Canadian National Railways, which increased its debt in the period by \$451 millions.
- (7) Interest-bearing debt is equivalent to 64.1 per cent of the investment in road and equipment of the Canadian National Railways as compared to 31.6 per cent for the Canadian Pacific Railway Company and 32.1 per cent for United States Class I roads.
- (8) Average earnings per mile per annum have been about 9 per cent less for the Canadian National Railways than for the Canadian Pacific Railway Company and about 51 per cent less than Class I roads in the United States.
- (9) Average traffic density is about 7 per cent lighter on the Canadian National Railways than on the Canadian Pacific Railway Company and about 50 per cent lighter than on Class I United States roads.
- (10) Average passenger traffic density has been about 17 per cent lighter on the Canadian National Railways than on the Canadian Pacific Railway Company and about 58 per cent lighter than on Class I roads.
- (11) Fixed charges of the Canadian National Railways are about twice as great, percentage-wise, of gross revenue, as those of the Canadian Pacific Railway Company or United States Class I roads.

In the Company's brief it is submitted for the reasons summarized in the foregoing that the fixed charges of the Canadian National Railways are far in excess of its normal earning capacity. The following statement is made:

"The portion to be represented by interest charge debt should in some considerable measure be related to the amount of net earnings which may be expected under all conditions to be available for the payment of interest thereon."

A witness speaking on behalf of the Company submitted other reasons for consideration. Although he described them as "largely psychological", he stated that this did not lessen their importance. These reasons may be summarized as follows:

- (a) As the Railways are public property, the public is entitled to a report on its operations in comprehensible form, which is not now possible, as the magnitude of the deficit overshadows other considerations.
- (b) Management is blamed by uninformed opinion for the large deficits which are inescapable under existing circumstances, and the view is widely held that the Railways cannot be operated at a profit.
- (c) These factors, singly and in combination, are injurious to the morale of officers and employees alike who are responsible for the company's administration and operation.

As stated in the Railway's submission, the adjustment would not cost the Government any money. Conversely, it would not save any money. Looking at the combined Government and Railways picture, it appears that the advantages to be gained are of a psychological nature and no attempt has been made to measure in dollars and cents any real savings which might result.

If, as suggested by the Railways, the revision of the capital structure would remove "from Railway to public accounts the extent to which commercial considerations have been subordinated to considerations of broad national policy"; this argument alone would be of sufficient importance to merit the most serious consideration. It would seem, however, that the operating accounts of the company must include innumerable charges in respect of the various lines operated as a result of broad national policy which would not be affected by a revision of the fixed charges. If this is the case, then revising fixed charges deals only with one phase and perhaps the least important phase, of those operating expenses which have arisen as a result of broad national policy.

H. CANADIAN NATIONAL SUBMISSION RESPECTING CAPITAL BURDEN

The Canadian National Railways develops its case to show that it has an excessive capital burden of \$1,533,000,000 (which is in excess of the fixed debt burden at 31st December 1949 of \$1,368,527,000.)

The Company expands its argument to show that this excessive capital burden of \$1,533,000,000 may be divided into two classes:

- (a) The original interest bearing debt of \$804,000,000 taken over in 1923 plus additional expenditures of a capital nature which have not resulted in additional earnings;
- (b) The capitalized value of the excess operating costs resulting from (1) combining the various roads into one system, and (2) the acquisition of certain unremunerative lines.

The Company submits that the burden resulting from the excess costs of combining the various railways into one system and the acquisition of certain unremunerative lines constitutes an operating disability and has said that the capitalized value of this disability may be described as "negative capital". (This expression "negative capital" was defined by one of the Company's spokesmen as follows: "It is nothing but a graphic phrase expressing the amount of capital that you would have to have in reserve to produce by its interest return the amount of the disability in operating account that you are suffering.")

An analysis of the Company's proposal shows that the excessive capital burden of \$1,533,000,000 is divided as follows:

Fixed Debt, which in the opinion of the Canadian National Railways should be converted to equity capital

Interest bearing obligations assumed in 1923.....	\$ 804,000,000
Necessary improvements to properties which it was contended did not add to the earning power of the system.....	100,000,000
Co-ordination costs for main line connections, belt lines and terminal arrangements.....	40,000,000
Expenditures for additions and betterments and rolling stock of Canadian Government Railways and additional costs of Pension Plan for Canadian Government Railways.....	135,000,000
Cost of acquisition and rehabilitation of certain unremunerative lines..	18,000,000
40% of expenditures on development branch lines.....	34,000,000
	\$1,131,000,000

Negative Capital

Capitalized value of excess operating expenses as a result of combining the various roads into one system.....	\$ 250,000,000
Capitalized value of the increased operating expenses resulting from the acquisition of certain unremunerative lines.....	12,000,000
Capitalized value of estimated excess operating costs resulting from the acquisition of the Newfoundland Railway and Steamship services	134,000,000
Capitalized value of excess operating costs resulting from the acquisition of the Temiscouata Railway.....	6,000,000
	\$ 402,000,000

The Company's contention is that by commercial standards the entire fixed debt burden should be converted to equity capital.

It was stated however that in view of the difficulty of converting interest bearing capital in the hands of the public into equity capital and having regard to the potential earnings of the Canadian National Railways, and on the assumption that the imbalance between rates and costs will be corrected, an appropriate adjustment would be:

- (1) That the \$760,000,000 of interest bearing obligations held by the Government at December 31st, 1948, be converted to equity capital;
- (2) That the Government should acknowledge an indebtedness of \$300,000,000 to be drawn on for retirement of interest-bearing obligations and capital additions and for which equity stock would be issued as and when the amounts were drawn;
- (3) That future development lines be financed to the extent of not more than 60 per cent by interest bearing securities and the balance by equity capital.

The conversion of the \$760,000,000 of interest bearing obligations of the Government into equity capital and the indebtedness of \$300,000,000, totalling in all \$1,060,000,000, constitutes a settlement in respect of alleged past sins and mistakes.

The proposal as to the financing of future development lines on the basis of not more than 60 per cent of interest bearing securities is designed to prevent the recurrence of similar mistakes and the piling up of excess fixed charges.

It is true as the Company suggests that it would be difficult to convert interest bearing securities in the hands of the public into equity securities. However, the same results could be achieved if the Government's indebtedness to the company was of such an amount that interest thereon was equivalent to the interest on the company's debt to the public.

No explanation has been offered as to why an adjustment of \$1,060,000,000 is asked for instead of the excess capital burden of \$1,533,000,000 referred to in the company's submission, or the total fixed interest debt of \$1,344,000,000 (December 31st, 1948) except the general statement that it represents a compromise of what the Company refers to as its claim against the Government.

The President stated that "a realistic capitalization must of necessity be related to its future earning power". However, no information has been offered as to what the company considers are the potential earnings or what additional revenues could be expected from a correction of the imbalance between costs and rates, except the general statement that it is not anticipated that any substantial surpluses "on the average" would be realized if the Company's proposals are put into effect.

I. OBJECTIONS MADE TO RECAPITALIZATION PROPOSALS

The only evidence in opposition to or criticism of the Canadian National Railways' proposal was put forward by three witnesses appearing for the Canadian Pacific Railway Company. The evidence of these witnesses was directed in the main to showing the possible adverse effects of the proposed reorganization on the Canadian Pacific Railway Company. Without in any way discounting or disregarding the importance or relevance of the evidence submitted by these witnesses, the reasonable course to pursue is to consider in the first place the Canadian National Railways' proposals on their own merits without regard to the Canadian Pacific Railway Company. If the conclusions so reached would have a harmful effect on that Company, then consideration would need to be given to changes in those conclusions which could or should be made.

After reviewing the proposals and considering the evidence, it would appear that the objections to the proposals (exclusive of those relating directly to the Canadian Pacific Railway Company) fall under three headings:

- (1) The fixed charges of a private company only represent a portion of the total financing charges involved in dealing with that company's capital. After paying the interest on fixed debt, a private company must have sufficient earnings if it is to maintain its credit, to set aside certain reserves for contingencies, pay a reasonable dividend to shareholders and pay to the various taxing authorities approximately 45 per cent on all earnings realized for these purposes. Therefore, while the fixed charges of the Canadian National Railways are high in relation to privately-owned railways, the Canadian National Railways, being a Government enterprise, is not under the necessity of showing earnings in order to maintain its credit. Thus, a comparison of fixed charges of the Canadian National Railways with the fixed charges of privately-owned railways does not give a true picture of the situation.
- (2) Another objection to establishing fixed charges as a percentage of revenue similar to that of other railways is the effect this might have on the rate structure. If the revenues and profits of the Canadian National Railways should increase over the next few years and earnings should be as great as those realized during the war years, it is recognized by the Canadian National Railways that such profits would give rise to demands for lower rates regardless of the earnings required to service the investment in rail property.
- (3) The proposal confines itself to a transfer from funded debt to capital stock of the total loans owing to the Government and a further proposed subscription to capital stock by the Government in the amount of \$300,000,000. It does not provide for any comprehensive reorganization of the capital structure and revision of the values of the investment figures to show what portion of the amount invested in railway property

should earn a reasonable return and what portion constitutes a drain on the earnings of the System. Although exhaustive comparisons have been made of the fixed charges with those of privately-owned companies in order to show that present fixed charges are excessive, it is admitted that the Canadian National Railways is not, in fact, comparable to a private company. While officials of the company have argued that fixed charges should be related to earning power, there is no estimate of normal earnings beyond certain general statements that under the plan no substantial surpluses would on the average be realized.

A witness for the Canadian National Railways expresses the view that if the relief asked for is given, the Canadian National Railways would "on the average" be free from a deficit position and have a moderate amount left over to be re-invested in the property.

However, there is no evidence which leads one to believe that even if the fixed charges or capital structure are revised in accordance with commercial principles, they will be so maintained for any length of time, as the factors governing the financing of commercial enterprises have little bearing in the case of Canadian National Railways.

The objections of the Canadian Pacific Railway Company are based on the fear that the Canadian National recapitalization proposals constitute a threat to the continued existence of the Canadian Pacific as a private corporation. The Canadian Pacific fears that Canadian National earnings on the basis of the proposed capital structure would give rise to demands for lower freight rates regardless of the value of railway property or the earnings required to service the investment therein.

J. CONCLUSIONS

The comparisons which have been made in the Canadian National Railways' brief of the fixed charges of various railways and their relation to gross revenues and to funded debt and total capital of the said railways leads to the conclusion that there is no uniform pattern which has been followed by railway companies in their financing. For instance, the comparisons which have been given show that in 1947 the fixed charges of the Canadian National Railways were the equivalent of 10.48 per cent of its revenues, whereas the Pennsylvania Railroad's fixed charges amounted to 7.88 per cent of its revenues and the fixed charges of the Santa Fe were only 1.89 per cent of its revenues. In that same year the fixed charges of the Canadian Pacific Railway Company amounted to 4.6 per cent of its revenues.

It would seem that comparisons of the fixed charges of one railway with those of another and of the percentage of fixed charges to revenues do not establish a case either for or against the comparability of total financial charges. It is doubtful whether a useful comparison can be made without taking into account all the financial charges including taxes on income and dividends on stock which a company is required to earn if its credit is to be maintained.

The financial policy followed by the management in financing the construction and operation of a railway will be the determining factor for the amount of fixed charges and their relationship to revenues and railway assets. The financial policy of a privately-owned railway will be determined from time to time by management, having regard to the conditions of the money market in which the funds must be raised and other factors having a bearing on the situation. The conditions which give rise to management's decisions in the case of a private company are not present in the case of the Canadian National Railways.

While there is no doubt that in bad times when earnings are low it is advantageous for a private company not to have heavy bond interest payments to meet, nevertheless it is also true that smaller earnings are required to service

bonds than an equivalent amount of common stock. For example, it requires earnings of only three and a half million to pay bond interest on a hundred million issue with a coupon rate of $3\frac{1}{2}$ per cent. A common stock issue of a similar amount would probably require a dividend rate of 5 per cent. In order to have five million dollars available to pay dividends, gross earnings in excess of eight millions are required to provide for the income tax liability and leave an amount sufficient to pay the dividend.

The disadvantages of the high fixed charges of the Canadian National Railways are largely, if not entirely, of a psychological nature and do not in fact result in any financial embarrassment to the Company or affect its credit, as deficits are paid by the Government.

The Canadian National Railways' witnesses and counsel contended that the revision of the capital structure of the Company and of its fixed charges has nothing to do with the rate structure or with rates. The view does not appear to be justified because if fixed charges of the Canadian National Railways were established on a very low level without some safeguards, earnings in excess of fixed charges would result in misleading comparisons giving rise to unwarranted demands for lower freight rates. Rates which do not provide a reasonable return on money prudently invested in transportation property will, in the long run, result in insufficient earnings being available for private companies to service their securities and can only lead to their insolvency or absorption by the Government.

Practical and useful comparisons cannot be made between the fixed charges of the Canadian National Railways, a publicly-owned company, and those of privately-owned companies. Comparisons, if they are to be made between the Canadian National Railways and privately-owned companies, should be on the basis of total capitalization and of financial charges required to service the investment in transportation properties. In other words, it should be recognized that, in addition to fixed charges, a private company must, over a period of time, have sufficient earnings to pay reasonable dividends to its shareholders and set aside reserves for a rainy day. Before dividends can be paid and reserves set aside, approximately 45 per cent of all earnings must be paid as income tax under present tax rates.

The evidence submitted does not establish comparability with other railways; the Canadian National Railways' witnesses and counsel have admitted that complete comparability cannot be achieved. Any privately owned railway would go into bankruptcy under comparable circumstances, and its reorganization plans would not be affected by considerations of public policy which must play a part in a public utility owned and operated by the Government.

What should be realized is that, while the Canadian National Railways and Canadian Pacific Railway Company could and should compete in so far as operations and services are concerned, there are many ways in which the two systems are not comparable, and it is neither practical nor desirable to establish the capital structure and the fixed charges of the Canadian National System on a basis comparable with the privately-owned railway.

The evidence does not establish that the revised fixed charges of approximately \$15,000,000 are reasonable in relation to prospective earnings.

A restatement of the Company's income for 1949 (based on the assumption that certain rate increases had been in effect for the whole year and giving effect to the Company's capital adjustment proposals) shows an estimated surplus of \$20,867,000 after the payment of fixed charges (Exhibit 277). A witness appearing for the Canadian Pacific Railway Company restated this estimate and showed a surplus of \$28,867,000; the difference being accounted for by the different treatment of a credit of \$8,000,000 from the deferred maintenance reserve. A witness on behalf of the Canadian National Railways said not excess maint-

enance was done during 1949 and therefore it was not proper to reduce the expenses by this credit, even though as a matter of policy the company had transferred the credit from the deferred maintenance reserve.

The evidence shows that it would be most difficult to prove how much, if any, extra or deferred maintenance was carried out in 1949 and, therefore, there is left a surplus for that year, after fixed charges, of a minimum of \$20,867,000 or a maximum of \$28,867,000, if the increases and the Company's proposals had been in effect the entire year.

Exhibit 277 includes a provision for income taxes. As the Canadian National Railways is a government-owned corporation, and of course is not subject to income tax, this has not been taken into account in the consideration of the restated earnings.

There is no suggestion by any of the witnesses that the increases shown in the restatement of 1949 income correct the imbalance between rates and costs. In fact, it has been stated that there is still a serious imbalance after giving effect to those increases.

There are obviously some difficulties and objections to the carrying out of the third part of the Company formula recommending that not more than 60 per cent of development lines be financed by interest-bearing securities.

In the first place, and perhaps most important, there is no suggestion as to who is to decide what formula is to be applied in determining what are development lines and how much of the 60 per cent will be financed by the interest-bearing securities.

In the second place, it is interesting to note that interest bearing securities now represent less than 64 per cent of the total debt and proprietor's equity of the company and less than 66 per cent of the investments less reserves and unadjusted credits.

It is a fact that while claims of excess costs are justified in many instances, in other instances rail lines of value and with earning power were transferred without any corresponding debts or debt charges. Having regard to this, it is doubtful that a rigid and fixed formula of the nature proposed would be effective or desirable as a means of keeping fixed charges within reasonable bounds.

The Canadian National Railways has established a case for reduction of its fixed charges and for the desirability of the Company being able to accumulate out of earnings a reserve or "something to come and go on".

It does not seem, however, that the Company's proposals should be adopted in toto. It seems advisable, rather, to depart from them and to suggest remedies which appear to be better adapted to meet the unfavourable position in which the Company now finds itself, but which take into account the fact that the Company is government-owned, and must perform such services as are delegated to it by Parliament and cannot be judged wholly on the basis of commercial standards.

No evidence was produced as to the appropriate total capitalization or as to the investment in rail property which should be expected to earn a return.

It was generally agreed among those who appeared before the Commission that it is undesirable for the Canadian National Railways to have recurring deficits in the face of what has been found by the Board of Transport Commissioners to be efficient management. On the other hand, it must be borne in mind that if fixed charges were reduced to a point where substantial surpluses are shown, the shipper and his representatives might not look with favour on the payment of dividends on shares held by the Government.

The problem seems to resolve itself into a search for a capital structure which would not impose too heavy a fixed charge burden in bad years but would ensure that a reasonable portion of surplus earnings would be paid to the owners as a return on invested capital in good years.

A revision of the capital structure or fixed charges of the Canadian National Railways should make provision for the following:

- (1) Some relief from the present heavy fixed charges so that deficits will not be experienced under efficient management when normal revenues are obtained.
- (2) The accumulation out of earnings, when available, of some reserve, or what has come to be known as "something to come and go on" to provide for additions and betterments.
- (3) The payment to the Government of the balance of the earnings, or some substantial portion of that balance, after interest charges on debts to the public and provision for a reasonable reserve.

K. RECOMMENDATIONS

In the absence of what appears to be satisfactory evidence as to normal earnings (and one is inclined to agree with the Company's witnesses that in the twenty-seven year period of the Company's operations it is a practical impossibility to determine "normal earnings"), and having regard to the information put before the Commission the following recommendations are made:

1. That the Canadian National Railways be reimbursed annually by the Government for the operating losses of the Newfoundland Railway and Steamship Services and also for capital expenditures in respect of the said Railway and Steamship Services.

This change is intended to be of a temporary nature as is explained hereafter and is made feasible by the terms of Section 19 of Chapter 172 of the Statutes of 1920, The Canadian National Railways Act, and of the Order in Council passed pursuant thereto, which provides for reconsideration of the treatment of this Railway taking place "from time to time".

That the amounts received as reimbursement for operating losses be shown as a separate item under the caption "Other Income", which is now found in the Consolidated Income Account of Canadian National Railways.

That annual capital expenditures reimbursed to Canadian National Railways, together with the cumulative total of such capital expenditures be shown as foot-notes to the annual statements of Canadian National Railways.

2. That Government loans totalling \$743,661,000 at 31st December, 1949, be converted into three per cent income debentures on which interest would only be paid if earned and would not be cumulative.
3. That the shares of the Canadian National Railways Securities Trust now held by the Government be turned over to the Canadian National Railways in exchange for an equal number of shares of the latter company. This would serve to simplify the capital structure of the system, but would not change its total capital or the Government's equity therein.
4. That after payment in the first place of the interest charges on debts due to the public, the Canadian National Railways be allowed to accumulate out of earnings in each year a reserve or "something to come and go on," such reserve to be not more than the lesser of:

- (a) one-third of the income after providing for all charges and deductions from income except interest on the Company's obligations, or
- (b) the balance of the income after payment of interest on debts due the public.
5. That after payment of the interest on the debts due to the public and the setting aside of the reserve or "something to come and go on" referred to in (4) above, an amount equal to three per cent of the then outstanding Government loans, or the balance of the earnings, whichever is the lesser, be paid to the Government.
 6. That to the extent that reserves as defined in paragraph 4 above and surpluses have been accumulated, losses, if and when realized, should be charged against such reserves and surpluses. If no such reserves or surpluses are available against which to charge the losses, such losses be reimbursed to the Company by the Government.
 7. That any capital required to finance the company, in addition to funds provided from operations and payments made under the provisions of paragraph 6 above, be obtained from the sale of bonds to the public and income debentures to the Government.
 8. That surplus earnings, if any, after the payment of interest on debts to the public, the provision for reserves or "something to come and go on" outlined in 4 above, and the payment of interest on Government loans, be dealt with at the discretion of the directors.

If the foregoing recommendations are adopted, no deficits will be realized so long as income, after providing for all charges and deductions from income except interest on the Company's obligations, is sufficient to provide for interest on funded debt due the public, which interest amounted to \$24,302,650 in 1949.

The following are examples illustrating the effect of the foregoing recommendations at various levels of earnings and on the basis of the 1949 interest of \$24,302,650 on the public debt: —

Example 1

Net Income available for the payment of interest.....		\$25,000,000
Interest on funded debt—public.....	\$24,302,650	
Appropriated as special reserve in accordance with the foregoing recommendations.....	697,350	25,000,000

Example 2

Net Income available for the payment of interest.....		50,000,000
Interest on funded debt—public.....	24,302,650	
Appropriated as special reserve in accordance with the foregoing recommendations.....	16,666,667	
Interest on income debentures held by the Government....	9,030,683	50,000,000

Example 3

Net Income available for the payment of interest.....		70,000,000
Interest on funded debt—public.....	24,302,650	
Appropriated as special reserve in accordance with the foregoing recommendations.....	23,333,333	
Interest on income debentures held by the Government....	22,309,830	69,945,813
Surplus.....		<u>54,187</u>

Example 4

Net Income available for the payment of interest.....		\$75,000,000
Interest on funded debt—public.....	\$24,302,650	
Appropriated as special reserve in accordance with the foregoing recommendations.....	25,000,000	
Interest on income debentures held by the Government....	22,309,830	71,612,480
Surplus.....		<u>3,387,520</u>

Careful consideration has been given to the problems resulting from the acquisition of the Newfoundland Railway and Steamship Services.

It is apparent from the evidence that substantial sums of money must be expended on the Newfoundland system. During the initial stages of operation it is likewise apparent that there will be substantial operating deficits on the system and it seems that it would be better not to impose on the Canadian National Railways the extra burden of both deficits on operation and heavy capital charges. It is for these reasons that it is recommended that the Government should bear the operating losses and capital expenditures of the system. However, it is also recommended that this arrangement be regarded as a temporary one to continue only until such time as the major capital expenditures have been completed and until the operations of the service are on a profitable basis or the losses are reduced to a point where they can be absorbed in the Canadian National accounts without unduly affecting the overall system results. This adjustment will lighten the burden on the Canadian National Railways during what will probably be a difficult period.

It is also recommended that in the case of any developmental line which may hereafter be constructed or acquired by the Government, in respect to which the capital expenditures required are large and losses in operation are likely to be incurred for some time, the entrustment of the said line to the Canadian National Railways be made on the same terms as are proposed herein in regard to the Newfoundland Railway.

The foregoing proposals taken together would, if adopted, relieve the Canadian National Railways of fixed charges on Government loans, which in 1949 amounted to \$21,798,000. They would also relieve the Railways of the burden of the operating loss estimated by the Company at about \$4,000,000 in respect of the Newfoundland Railway and Steamship Services and of the problems involved in financing improvements, betterments and rolling stock relating to these services.

L. OBSERVATIONS

There are no particular operating figures or statistics available which will establish an iron-bound case for the proposals which have here been made nor for any others which may have been or could be advanced. These proposals, however, do recognize two major points:

1. The excessive costs of operating the Newfoundland Railway, resulting from Government policy in the acquisition of those services. It seems reasonable to recommend that the Canadian National Railways be relieved of these costs.
2. Government loans are now in reality income securities and there is no reason why that situation should not be given effect to in the accounts of the Railways and the Government.

It may seem somewhat contradictory to recognize the excess costs in respect of the Newfoundland Railway and Steamship services and disregard other claims which have been made in respect of excess debt burden and so-called negative capital arising from the acquisition and operation of other railways acquired over the years. The Newfoundland Railway is one of the larger items put forward in the Railways' case, and furthermore its losses are something which should be capable of reasonably exact measurement. It is not an integrated segment of the system and there should be no difficulty in separating the expenses and expenditures of that railway from the rest of the system. This does not appear to be practical or desirable in connection with certain other lines referred to in the railways' submission as being unremunerative.

While on first examination, the theory of "negative capital" and the remedy proposed by the Canadian National Railways, may be ingenious, it must be

pointed out that the situation as a whole cannot be appraised adequately unless recognition is also given to the value of the Company's high density traffic lines. The value of these lines must offset completely or to a substantial degree the burden of excessive expenditures which gave rise to the claim for negative capital. This theory of negative capital is at best however a novel theory, subject to possible errors of such magnitude that one should hesitate to accept it as a proper basis for recapitalization.

The earnings of prior years have not been recast to show the effect of these recommendations, as the Commission is in agreement with the views which have been generally expressed that the past earning record either of the whole period or for any particular group of years does not necessarily reflect normal conditions or an accurate estimate of what may be expected in the future.

It is true that if these recommendations had been in effect for 1948 and 1949, substantial deficits would have been realized in both years. This would have also been the case under the Company proposals (and would likely be the case in any period when there is a serious imbalance between rates and operating costs). Capital revision cannot be expected to correct such imbalances.

The Company recognizes that fixed charges should not be related to earnings which result from operations when a serious imbalance exists between costs and rates. The Commission is completely in accord with that view.

In recent years Canadian National Railways' earnings have resulted from rates established on the basis of Canadian Pacific Railway's requirements. If this continues to be the case in the future, and if rates are established which will enable the Canadian Pacific Railway Company to earn its requirements as determined by the Board of Transport Commissioners, it seems assured that on the average Canadian National Railways' earnings will be more than sufficient to pay interest on its debt to the public.

If the recommendations of the Commission are carried out, and if good judgment and common sense are exercised in the future in the financing of improvements and betterments, there is no reason why the Canadian National Railways should again be burdened with excessive fixed charges.

These recommendations have been formulated without ignoring or losing sight of the objections raised by the Canadian Pacific Railway Company to the Canadian National recapitalization proposals. If they are adopted it seems clear that any rate-making body looking at the requirements of the Canadian National Railways must give consideration not only to the interest on the debt to the public but also to the special reserve which is recommended and to the interest on government debentures or loans.

There appears to be no reason to recommend any change in a transportation policy which has provided the Canadian people with efficient rail transportation services through the medium of a private company competing with a government-owned railway. The Commission believes that these recommendations, if carried out, will serve to continue this policy and will provide the Canadian Pacific Company with the protection to which it is entitled and which it needs if it is to continue to function as a healthy and vigorous private corporation.

A realistic approach to the recapitalization of the Canadian National Railways must recognize: *First*, that it is not a privately-owned company and has, as such, advantages, e.g. exemption from income tax and relief from credit problems; *Second*, that it must operate railways in the public interest regardless of whether or not they may be profitable; *Third*, that its earnings are consequently harder to forecast than in the ordinary case; *Fourth*, that considerations ordinarily applicable to private companies on a recapitalization do not apply to it with anything like the same force or effect. These recommendations take cognizance of these factors.

APPENDIX "A"

CANADIAN NATIONAL RAILWAYS
STATEMENT OF RESULTS OF OPERATIONS FOR THE YEARS 1923 to 1949

Years	Revenues	Income available for fixed interest charges	Fixed interest charges	Deficit* or surplus
1923.....	\$ 256,961,590	\$ 12,041,187	\$ 35,041,380	\$ 23,000,193*
1924.....	239,596,670	18,187,478	38,361,704	20,174,226*
1925.....	249,411,884	30,633,059	40,438,235	9,805,176*
1926.....	270,982,223	40,769,854	39,197,233	1,572,621
1927.....	274,879,118	36,106,796	40,526,097	4,419,301*
1928.....	304,591,268	45,274,632	41,810,880	3,463,752
1929.....	290,496,980	33,242,348	45,503,979	12,261,631*
1930.....	250,368,998	15,639,024	51,316,121	35,677,097*
1931.....	200,505,162	5,381,293*	55,587,145	60,968,438*
1932.....	161,103,594	3,876,448*	56,965,279	60,841,727*
1933.....	148,519,742	2,489,961*	56,465,427	58,955,388*
1934.....	164,902,502	7,403,845	55,811,746	48,407,901*
1935.....	173,184,502	6,047,327	53,468,792	47,421,465*
1936.....	186,610,489	5,881,229	49,184,623	43,303,394*
1937.....	198,396,609	8,287,228	50,633,096	42,345,868*
1938.....	182,241,723	3,549,049*	50,765,147	54,314,196*
1939.....	203,820,186	10,635,023	50,730,543	40,095,520*
1940.....	247,527,225	33,474,443	50,439,487	16,965,044*
1941.....	304,376,778	54,361,316	50,344,989	4,016,327
1942.....	375,654,544	74,045,461	48,982,193	25,063,268
1943.....	440,615,954	85,302,456	49,663,044	35,639,412
1944.....	441,147,510	71,096,564	48,069,640	23,026,924
1945.....	443,773,394	71,084,273	46,328,143	24,756,130
1946.....	400,586,026	35,719,527	44,681,097	8,961,570*
1947.....	438,197,980	27,939,150	43,824,344	15,885,194*
1948.....	491,269,950	11,297,109	44,829,850	33,532,741*
1949.....	500,723,386	4,057,907	46,100,934	42,043,026*
TOTAL.....	\$7,840,445,987	\$723,230,485	\$1,285,071,148	\$561,840,663*
Average 1923-1949.....	\$ 290,386,888	\$ 26,786,314	\$ 47,595,227	\$ 20,808,913*

*Denotes red figures.

CHAPTER VII

ACCOUNTING AND STATISTICS

The Order in Council requires this Commission to:

“Review the present day accounting methods and statistical procedure of railways in Canada and report upon the advisability of adopting, (or otherwise), measures conducive to uniformity in such matters and upon other related problems such as depreciation accounting, the segregation of assets, revenues and other incomes, etc., as between railway and non-railway items.”

A. INTRODUCTION

While the Order in Council refers to depreciation accounting and the segregation of railway and non-railway items as being problems related to uniform accounting, they are in fact part and parcel of a system of uniform accounts. No measures conducive to uniformity in accounting and statistical methods can receive serious consideration without taking into account the problems involved in adopting depreciation accounting and in determining what assets, liabilities, revenues and expenses should properly be included in a system of accounts established for the purpose of reflecting rail operations and investments.

The real object of regulations covering uniform accounting, depreciation and the segregation of rail and non-rail items is to ensure that the regulatory body—in this case the Board of Transport Commissioners—has the necessary information to enable it to regulate such matters as come within its powers. The object is not, as some interests would appear to believe, to substitute the discretion of the regulatory body for that of administrative officers of the railways in administrative matters. It is important to stress this point.

B. PRESENT REGULATIONS GOVERNING RAILWAY ACCOUNTING METHODS AND STATISTICAL PROCEDURES IN CANADA

Jurisdiction over returns and reports of Canadian railways is given the Board of Transport Commissioners under Sections 379 and 380 of The Railway Act, which read as follows:

“379. 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 capital, traffic and working expenditure and of all other information required.

“Such returns shall be dated and signed by and attested upon the oath of the secretary, or some other chief officer of the company or carrier by water, and shall also be attested upon the oath of the president, or in his absence, of the vice-president or manager of the company or carrier by water, or shall be signed and attested by such other person or persons as the Board may direct.

“Such returns shall be made for the period beginning from the date to which the then last yearly returns made by the company or carrier by water extend, or if no such returns have been previously made, from the commencement of the operation of the railway, or other works, or undertaking, and ending with the last day of December in the year, or other interval, for which the returns are to be made, or with such other date as the Board may direct.

“A duplicate copy of such returns, dated, signed and attested in manner aforesaid, shall be forwarded by such company to the Dominion Statistician within one month after the first day of February in each year, or within one month after any other date directed by the Board under the last preceding sub-section, 1919, c. 68, s. 379.”

“380. Every railway, telegraph, telephone and express company and every carrier by water, if required by the Board so to do, shall prepare returns of its traffic monthly, that is to say, from the first to the close of the month inclusive.

"2. Such returns shall be in accordance with the forms for the time being required by the Board.

"3. A copy of such returns, signed by the officer of the company or carrier responsible for the correctness of such returns, shall be forwarded by the company or carrier to the Dominion Statistician within seven days from the day to which the said returns have been prepared.

"4. The Board may in any case extend the time within which such returns shall be forwarded. 1919, c. 68, s. 380."

In addition to the foregoing legislation, the Statistics Act, Revised in 1948, Section 25, provides in part as follows:

"... Every carrier and public utility shall annually prepare returns in such form as may be prescribed by the Governor in Council with respect to its operations."

Under Section 26 of the same Act, there is the following provision:

"... Every carrier shall prepare returns on his traffic and operations monthly."

C. SUMMARY OF PRESENT ACCOUNTING PRACTICES OF THE CANADIAN NATIONAL RAILWAYS AND THE CANADIAN PACIFIC RAILWAY COMPANY WITH PARTICULAR REFERENCE TO DEPRECIATION.

In the absence of a mandatory Canadian accounting classification, both railways adhere quite closely to the classification for Class I United States railroads issued by the Interstate Commerce Commission under the authority of the Interstate Commerce Act.

Thus the reports prepared by the railways are subject to control by the Board of Transport Commissioners. The detailed accounting records maintained by the companies are not subject to the same control, but, where deemed advisable by the Railways, are kept in accordance with the Interstate Commerce Commission classification. Therefore, while reports of the two railways are similar and it is felt that with a few exceptions accounting practices are also similar, there is no assurance that revenues and expenditures or, in fact, assets and liabilities have in all cases been treated in the same manner in the books of both companies. Consequently, there is no assurance that a comparison of the reports of the two companies results in a comparison of like with like, in so far as individual items are concerned.

The following quotations from the Submissions of the two railways are informative and interesting.

In the Brief of Canadian National Railways (Exhibit 214) the following general descriptive statement is made:

"In the absence of Canadian mandatory accounting regulations, Canadian National has voluntarily observed the classifications prescribed by the Interstate Commerce Commission for steam railroads in the United States. These classifications have as their basis the knowledge and experience in railroad accounting gained over a long period of years by railroad accounting officers and by the I.C.C."

In the Brief of Canadian National Railways there is the following statement:

Non-Rail Operations

In the Canadian National System non-rail operations consist of:

- (a) hotel operations; and
- (b) separately operated properties.

"As a generality it may be said all these operations are ancillary to the main business of the Canadian National. They are associated with and helpful to the rail-line operations. In comparison with the rail-line operations they are relatively minor in degree. The financial returns from these operations are excluded from railway operating revenues and expenditures and are reflected in separate accounts in the System income statement."

In the Submission of the Canadian Pacific Railway Company (Exhibit 139A) the outline submission of the company reads as follows:

"65. With regard to the segregation of assets between rail and non-rail operations, Canadian Pacific keeps its accounts in such a way as to enable an adequate segregation to be made except in the case of working capital, which must always be a matter of judgment. No legislation is required to enable a complete segregation to be made and Canadian Pacific supplied such material recently to the Board of Transport Commissioners."

The company goes on to outline its practices in reporting to the Board of Transport Commissioners and to the Dominion Bureau of Statistics as follows:

"Canadian Pacific accounting follows the pattern prescribed by the Interstate Commerce Commission for railroads in the United States and its railway investment and operating results are distinguishable from the corporate investment and results with only certain minor exceptions. In support of this assertion attention is drawn to the Annual Report of Canadian Pacific to the Board of Transport Commissioners and the Dominion Bureau of Statistics for the year ended December 31, 1948.

"Dealing first with the assets of the Company, there is no difficulty, for example, in finding the amount of the Railway Property Investment in the General Balance Sheet (Schedule 4A and footnote 2 in the Annual Report for 1948 of Canadian Pacific to the Board and Bureau of Statistics.) Clearly segregated on the 'Assets' side of the Balance Sheet are the items of railway, rolling stock and inland steamship properties, improvements on leased railway property and the stocks and bonds of leased railway companies. These comprise the investment, as recorded in the books of the Company, in owned and leased lines of the railway enterprise. In this connection it is important to understand that the Road Property Investment is recorded at much less than actual cost owing to the feature of 'renewal accounting' which the Company followed in regard to road property replacements for so many years. Under renewal accounting, when a unit of property is replaced the investment account is charged with the amount, if any, by which the total cost exceeds the cost to replace in kind, but it is not charged with the amount by which the cost to replace in kind might exceed the cost of the original unit. To the extent of replacements in kind, therefore, the investment account does not reflect changes in cost brought about by changes in price level and there is no way of ascertaining at this time the extent to which the investment account has been so understated short of a physical inventory of the entire property.

"Also on the 'Assets' side of the Balance Sheet, and elaborated in note 1 thereto, is the sum of the donations and grants which were used in the building of the railway, comprised mainly of those received under the terms of the original contract dated October 21, 1880.

"With regard to the stocks and bonds of leased lines which are held by the public, but which must be taken into account in order to arrive at the total investment in property used in transportation service, the value of such securities is shown in note 2 of the Balance Sheet.

"In the interests of economy and efficiency, the Company's treasury and much of the materials and supplies are common to both rail and non-rail operations and thus there is no readily discernible segregation between rail and non-rail of the Working Capital of the Company. The principal items of Working Capital, which represents only a relatively small part of the total investment in any event, are the Cash and Materials and Supplies but these are subject to reasonable apportionment through special study on the basis of respective requirements. Such an apportionment was recently developed by the financial and supply officers of the Company in the 20% Freight Rate Case and was accepted by the Board in its recent judgment.

"The funded debt and capital stock liabilities of the Company, as set out on Schedule 4B in the Annual Report to the Board and to the Bureau of Statistics, are not segregated between the railway enterprise and the non-railway operations, and such a segregation is not, of course, practical or even feasible except on a purely arbitrary basis.

"Proceeds from the issuance of the capital stock and other securities (apart from Equipment Obligations) have been merged in a common treasury along with all other monies which the Company constantly receives from its many diversified operations.

The Company supplied a balance sheet and profit and loss account to the Board in the 20% Freight Rate Case (Exhibit (49)-49 showing an allocation of capital and profit and loss between railway and non-railway properties.

"In summary, the Canadian Pacific investment in railway property is clearly segregated from non-railway investment on the Balance Sheet and there is supplied to the Board and the Bureau of Statistics the figure of 'Investment in Property used in Transportation Service', which is the relevant base for testing railway results. While it is true that the capital liabilities of the Company cannot feasibly be segregated as between rail and non-rail operations, no difficulty is presented because the satisfactory way of measuring permissible earning power is by fixing a fair rate of return to be earned on the railway property investment.

"66. The Company's income account provides in the first instance the net amount of earnings produced by the investment in railway transportation property and also an over-all figure of income earned from the investment in non-rail assets. Some minor items of overhead costs, such as supervision expenses and some items of income, such as bank interest, might be allocated somewhat differently but such differences are not likely to be important.

"67. Canadian Pacific submits that accounting methods and statistical procedure are not matters which lend themselves to statutory treatment but rather should be left to administrative regulation by the Board of Transport Commissioners in order that necessary flexibility may be provided."

The depreciation policies and practices of the two major Canadian railways, applicable to assets in Canada, which have been followed in the past and are now in effect, may be summarized as follows:

1. *Canadian National Railways* *Equipment*

From 1923 to 1939 Canadian National Railways followed retirement accounting.

Effective January 1st, 1940, the Company instituted a policy of depreciation accounting on a straight line basis. The original rate applied was 2.6 per cent, but additional provisions for depreciation were made of \$2 million in 1941, \$5 million in 1942, \$7½ million in 1943 and \$7 million in 1945. In 1945, Canadian National Railways applied a 3½ per cent rate which, it is stated, was based on the collective experience of United States roads.

Roadway Property

Canadian National Railways follows retirement accounting in respect of roadway property.

2. *Canadian Pacific Railway Company* *Equipment and Depreciable Road Property*

Prior to 1930 the Company applied renewal accounting to equipment and for the period 1930 to 1939 applied retirement accounting to such assets.

In 1940 the Company adopted depreciation accounting for equipment on a user basis and in 1942 adopted depreciation accounting for depreciable road property on a user basis.

Prior to the adoption of depreciation accounting for road property, the Company had followed renewal accounting in respect to such assets.

D. PRINCIPAL DIFFERENCES BETWEEN CANADIAN NATIONAL RAILWAYS AND CANADIAN PACIFIC RAILWAY COMPANY

The principal differences in the accounting policies and practices of the two railways are as follows:

- (1) Canadian National follows depreciation accounting for equipment on the straight line method.

Canadian Pacific follows depreciation accounting for equipment on the user basis.

Canadian National has not adopted depreciation accounting for roadway property in Canada.

Canadian Pacific has done so on a user basis for depreciable roadway property.

(2) Canadian National operates its express service as a department of the railway.

Canadian Pacific recognizes the separate identity of its subsidiary express company.

(3) Canadian National operates its telegraph service as a department of the railway and includes its revenues and expenses in railway operating figures.

Canadian Pacific operates its telegraph service as a separate department of the company and carries the net profit thereon to its general profit and loss account.

(4) Canadian National accounts are published on a consolidated basis. Canadian Pacific accounts are those of a parent company.

(5) The published income statements of the two railways differ in their form and terminology.

In the Submission of the Canadian Pacific Railway Company is the following statement:

"58. The significant variation in accounting practice between Canadian National and Canadian Pacific is in regard to depreciation practices. Canadian Pacific follows depreciation accounting for all depreciable assets, as is prescribed for United States roads. Accruals for depreciable road properties and railway rolling stock are made on the 'user basis'. The annual depreciation charges are developed as a product of the user rates and the use factor. In the case of rolling stock the use factor is the run-out mileage of the various classes of equipment and in the case of road property is the gross ton mileage. Both of these use factors are appropriate measures of the use made of rolling stock and road property respectively. Unimportant exceptions are made in the cases of inland steamships and of work equipment where the straight line basis is used."

An examination of the submissions made and of the evidence given and of the arguments of Counsel seems to show that the first sentence in the foregoing statement is justified, namely:

"The significant variation in accounting practice between Canadian National and Canadian Pacific is in regard to depreciation practices."

It would also appear that, except in the case of depreciation accounting, the differences in accounting policies and practices of the two railways are not likely to prove serious obstacles to uniformity.

E. PRINCIPAL DIFFERENCES IN ACCOUNTING PRACTICES AND POLICIES BETWEEN THE TWO LARGE CANADIAN RAILWAYS AND CLASS I UNITED STATES ROADS

As stated previously, the accounting practices of the two major Canadian railways in respect of Canadian operations follow closely the accounting practices prescribed by the Interstate Commerce Commission. The principal differences may be summarized as follows:

(1) The Canadian National Railways and the Canadian Pacific Railway Company do not keep their accounts in such a manner as to reveal operating profits or losses on passenger services, whereas this is the practice in the United States.

(2) The Canadian National Railways provides for retirement of depreciable road properties of its Canadian lines by a charge to expense at the time of its retirement, whereas in the United States the standard practice is to provide for such retirements by annual depreciation accruals based on the straight line method.

(3) The Canadian Pacific Railway Company provides for retirement of its equipment and depreciable road properties by means of annual depreciation accruals based on the user method, whereas the standard practice in the United States is to base accruals in this respect on the straight line method.

(4) Canadian National Railways publishes its accounts on a consolidated basis, whereas in the United States this is not a common practice.

(5) The Interstate Commerce Commission Uniform System of Accounts for Steam Railroads provides that when a railway company transacts an express business through its regular railway organization the revenues therefrom and the expenses thereof shall be accounted for through the primary revenue and expense accounts provided for that purpose.

Canadian National Railways adheres to this principle. The Canadian Pacific Railway Company operates its express business through a subsidiary company.

(6) With respect to commercial telegraphs, the Interstate Commerce Commission requires that when a railway company conducts a commercial telegraph business its revenues and expenses shall be included in the primary revenue and expense accounts of the railway.

Canadian National Railways follows this practice, whereas the Canadian Pacific Railway does not.

The large American railroads do not conduct telegraph or express operations. Therefore, the Canadian Pacific Railway Company's procedure may be more comparable to American practice in regard to such operations than that of the Canadian National Railways. This may appear to be anomalous, but in any event it is not a matter of great consequence.

F. MEANING OF UNIFORM ACCOUNTING, DEPRECIATION ACCOUNTING AND THE SEGREGATION OF RAIL AND NON-RAIL ITEMS

During the hearings, it became apparent that there might be some difference of opinion as to the meaning of these terms of the Order in Council. It would seem, however, that the terms uniform accounting, depreciation accounting and segregation of rail and non-rail items may be defined or described as follows:

Uniform accounting methods and statistical procedures may be described as those methods and procedures which will provide for the recording and reporting of similar expenditures, revenues, assets and liabilities and other data by the various carriers in a similar manner. It is a system of accounts and reports which will permit of comparison of the accounts and reports of any one company with those of another company, with the assurance and knowledge that items of a similar nature have been recorded by all companies under accounts bearing the same name and reported by all companies in a similar manner.

There have been many definitions of depreciation and depreciation accounting propounded during the past years. One which has had general acceptance with the accountants and which was used in the recent rate cases before the Board of Transport Commissioners without being challenged is the

definition issued by the Committee on Accounting Procedure of the American Institute of Accountants in its Bulletin No. 22, dated May 1944, and which reads as follows:

"Depreciation accounting is a system of accounting which aims to distribute the cost or other basic value of tangible capital assets, less salvage (if any), over the estimated useful life of the unit (which may be a group of assets) in a systematic and rational manner. It is a process of allocation, not of valuation. Depreciation for the year is the portion of the total charge under such a system that is allocated to the year. Although the allocation may properly take into account occurrences during the year, it is not intended to be a measurement of the effect of all such occurrences."

In the "Report of Committee on Depreciation to the National Association of Railroad and Utilities Commissioners 1943", there are the following statements regarding depreciation and depreciation accounting on page xiv of the summary of that report:

"The significance of the depreciation phenomenon may be described as follows:

- (a) Depreciation is the expiration or consumption, in whole or in part, of the service life, capacity, or utility of property resulting from the action of one or more of the forces operating to bring about the retirement of such property from service;
- (b) The forces so operating include wear and tear, decay, action of the elements, inadequacy, obsolescence, and public requirements;
- (c) Depreciation results in a cost of service.

"Depreciation accounting is the process of charging the book cost of depreciable property to operations over its life."

The purpose of depreciation accounting may be said to be:

- (a) To provide a reasonable or fair allocation of the cost of an asset, subject to depreciation, against each accounting period;
- (b) To provide for the recovery of the cost of the asset subject to depreciation on the exhaustion of its useful life.

By the segregation of rail and non-rail items is meant the classification or grouping of assets, revenues and expenses relating to railway operations so that the amount invested in railway property is clearly disclosed at all times and the results of the operations of railway property are also disclosed in a clear and authoritative form.

Such a classification or segregation will not be generally acceptable to interested parties unless it is carried out under the instructions and inspection of an independent regulatory body. Uniform accounting regulations for railway accounts necessarily involve an appropriate segregation or grouping of rail and non-rail items.

G. PROPOSALS AND SUGGESTIONS

The following are some of the statements which have been made in submissions to the Commission and which serve to outline the views generally held on the subjects of uniform accounting regulations, segregation of rail and non-rail items and depreciation accounting.

1. *Uniform Accounting and Segregation of Rail and Non-Rail Items Canadian National Railways*

In the Canadian National Railways brief, the following statement is made:

"Canadian National is a state-owned enterprise. It is owned by the people of Canada and its affairs are a matter of public interest. It is highly desirable that the accounting presentation of its financial position and the results of its operations should be made according to accepted standards. A management subject to accountability should not itself decide the accounting rules by which the results of its management are to be judged."

The Canadian National Railways also submits that there should be uniformity between the accounting regulations of Canadian railways and those of United States roads. In support of this contention it points out that it operates extensive lines in the United States in respect of which it must follow the American classifications as prescribed by the Interstate Commerce Commission. The accounts of these lines are included in the System accounts of the Canadian National Railways and any variation in accounting classifications would add to the accounting problems of the Canadian National Railways.

The Canadian National Railways emphasizes the advantages and benefits which would accrue to a Canadian regulatory body and the Canadian railways if the Interstate Commerce Commission classifications were adopted.

The Canadian National Railways suggests that the smaller railways in Canada should not be burdened with a too elaborate accounting system and might use the Interstate Commerce Commission condensed classification. There is general agreement that small railways not operated or controlled by the two main systems should not be required to follow a classification designed for the large railways. The chief point of importance is that uniformity between the two major systems should exist.

Canadian Pacific Railway Company

In the Canadian Pacific Railway Submission is the following statement indicating certain differences between the situation in Canada and the United States:

"Canadian railway accounting has largely followed the pattern established in the United States. The Interstate Commerce Commission found it necessary to place particular emphasis on measures for achieving uniformity in railroad accounting due to certain distinctive conditions, not paralleled in the Canadian situation.

"For instance, the Interstate Commerce Commission, in 1900, had jurisdiction over 1,224 railroads operating 192,556 miles of main track and, at the end of 1947, 502 railroads operating 238,209 miles of track. In these circumstances, it was essential to the Commission's exercise of its functions that uniformity be sought in the periodic submissions of data by the many railroads under its jurisdiction.

"In Canada, however, out of 42,322 miles of main track at December 31, 1947, 38,764 miles, or over 90% of the total, were represented in the two great transcontinental roads—the Canadian Pacific and Canadian National."

The following statement also appears:

"Although the degree of uniformity in accounting procedure of Canadian railways is substantial, permitting certain general comparison of their results one with another and with those of United States roads, nevertheless the extent of comparability between the two major Canadian roads and between Canadian and United States roads is limited."

The Brief of the Company also explains the reasons for the views of the Canadian Pacific Railway Company on this lack of comparability. The Canadian Pacific Railway Company submits that some of these differences are of such a fundamental nature that they cannot be overcome by uniform accounting treatment.

Province of Alberta

The Province of Alberta makes the following statements on accounting and statistical procedures:

"The Province of Alberta submits that your Commission should recommend that a standard system of accounts be adopted by the railways of Canada."

"It is not here suggested that such uniform results are necessarily used for the purpose of determining freight rates or passenger rates. The object of stressing the necessity for a uniform classification of accounts is that the financial statements may truly reflect the correct operating conditions and the financial position generally."

"In the Submission of the Province of Alberta there is definite need for the prescription of uniform accounts by the regulatory body, i.e. the Board of Transport Commissioners, and for the continuous supervision of those accounts by the regulatory body. In our submission, therefore, the Commission should recommend that the Board of Transport Commissioners be empowered by statute to promulgate a uniform system of accounts for Steam Railways in Canada, generally along the lines of the accounting classifications prescribed for United States railroads by the Interstate Commerce Commission. In our submission the differences which the Canadian Pacific in its Outline Brief calls to the attention of the Commission should not be regarded as being sufficiently important to prevent the inauguration and functioning of a uniform system of accounts."

"We further submit however that by statutory provision the Transport Board should be authorized and directed to:

- "(1) make a segregation of rail and non-rail activities of each carrier;
- "(2) require the carriers to keep their respective accounts accordingly;
- "(3) require the railways to properly apportion between rail and non-rail all charges which are common to rail and non-rail operations;
- "(4) require the railways to submit their financial statements in accordance with such segregation."

Province of British Columbia

The following statements are made on behalf of the Province of British Columbia:

"The principal recommendation in this field which the Province of British Columbia desires to stress is the advisability of the adoption of uniform accounting regulations for Canadian railways."

"The accounting regulations should make provision for the detailed classification of all items which comprise the assets and liabilities of Companies engaged in the provision of rail transportation in Canada whose activities fall within the orbit of the Board of Transport Commissioners. The classification should provide for the complete segregation of assets and liabilities employed in the furnishing of rail service from all other assets and liabilities of the Company. We will have certain recommendations to place before the Commission regarding this particular phase in a later portion of this Brief. The assets employed in the provision of rail service should be segregated in such detail as is practicable with a minimum requirement of showing each category of depreciable and non-depreciable property separately."

Province of Saskatchewan

The Province of Saskatchewan makes the following statements:

"It is suggested, therefore, that there be prescribed by the Board of Transport Commissioners a uniform system of accounts fully detailed as to the content of each account and giving particular attention to the separation as between what is operating cost and what is capital. It is further suggested that there be prescribed a uniform policy as to provisions for retirement of plant. The Board should have the right of inspection, by its technical staff, of the accounting and statistical records maintained by the railway. A standard form of annual report to the regulatory body fully detailed as to all necessary statistical and accounting information and available to the public which pays the rates, should be in existence. There should be tests of maintenance and expense levels as to normality. The results to be achieved from the adoption of the foregoing would mean uniformity of accounts from year to year as between the different companies under regulation. It would also mean uniformity of interpretation through periodic rulings of the regulatory body. It would mean that the rules of the Board were being followed. It would also mean a standard policy of provision for retirement co-ordinated with the maintenance policy with which it must be integrated."

"The Government of Saskatchewan wishes to point out most emphatically that the above suggestions are made on the assumption that subsidiary ventures such as the hotels and the mining investments of the Canadian Pacific Railway will be considered as railway investments for the purposes of rate making, and that the accounting practices of these subsidiaries will be subject to the scrutiny of the Board. The Cana-

dian Pacific Railway was incorporated and sponsored for the purpose of providing transportation to the Canadian people and their investments should be treated accordingly."

Saskatchewan is the only province that has expressed the view that all "subsidiary ventures" of the Canadian Pacific Railway Company should be taken into account and considered as railway investments for the purposes of rate making.

Province of Nova Scotia

The Province of Nova Scotia makes the following statement:

"With respect to accounting methods of railways in Canada, it is submitted that in order to appraise the operating results of the railway in any year or to compare the results over a period of years, it is imperative that annual statements should be compiled on a uniform basis. It is urged that to bring this about the Board of Transport Commissioners prescribe a uniform standard classification of accounts which the railways should be required to follow in preparing their records and financial statements."

The Province of Nova Scotia enumerates as follows those points which it believes should receive special attention in dealing with uniform accounting and the segregation of accounts:

- "1. Definite and detailed rules should be laid down as to what constitutes proper charges to the operating accounts under the classification of maintenance.
- "2. The method of computing depreciation should be determined and the rates prescribed for all classes of assets.
- "3. Rules for the segregation of accounts should be laid down, clearly setting out what constitutes rail as opposed to non-rail enterprises.
- "4. Rules for the allocation and apportionment of charges common to both rail and non-rail enterprises should be prescribed by the Board."

Province of Manitoba

The Province of Manitoba describes the first requirement of a uniform system of accounts as follows:

"The first requirement of such a system of prescribed accounts is that there should be a clear definition of the activities which are to be covered by it. It is the view of the Manitoba Government that this system should cover all rail activities of the Canadian railways. The term 'rail' as used here should extend to the point where it will cover revenues and expenditures, both current and capital for all those activities which are to be taken into account in determining the level of freight and passenger rates in Canada. The particular division which should be made here has been described previously and needs no further elaboration at this point."

The Province of Manitoba makes the following suggestions with respect to the annual reports to be made by the railways to the Board of Transport Commissioners and to the Dominion Bureau of Statistics:

"Our suggestions with respect to the Annual Reports by the railways to the Board and to the Dominion Bureau of Statistics, are that they should:

1. Reveal as fully as possible the results of railway operations during the period under the standard accounting system prescribed by primary accounts;
2. Reveal changes in the different asset accounts during the period, and in the related reserve accounts;
3. Reveal operating revenues, operating expenses and investment, in the major regions of Canada and the formulas which have been used to allocate those items which are not directly attributable to the service in any one region;
4. Include a Balance Sheet segregating rail and non-rail assets and their related reserve accounts;

5. Include the data necessary to a more detailed study of traffic statistics particularly with respect to the volume of traffic moving under the various types of rates;
6. Include the data necessary to a study of the relative level of rates in the major areas of Canada;
7. Include an annual inventory of assets in service, classified in such a manner as to reveal the number of years the various assets have been in service;
8. Include a statement showing wherever possible, statistics of physical units such as rail placed, ties placed, man-hours of work performed, etc., in total and segregated between that chargeable to maintenance and that chargeable to capital.

"Our final suggestion in this regard is that there should also be a system of monthly reports in a more condensed and less detailed form, covering those records for which monthly figures are relevant. Wherever monthly reports are provided they should follow the same pattern as the annual reports."

2. Depreciation

Canadian National Railways

The Canadian National Railways outlined its objections to any change in the depreciation policies of that Company. These may be summarized as follows:

- (a) Canadian National Railways has no inventory of its railroad property and any adequate valuation of the property which might be subject to depreciation would be a most lengthy and expensive task.
- (b) Canadian National Railways submits that the present practice in the United States as regards roadway property is illogical as depreciation accounting is not applied to the track structure.
- (c) Canadian National Railways suggests that for over forty years, United States railroads were generally opposed to depreciation accounting for roadway property and the reason for their changed attitude had largely to do with income tax relief which could be obtained. Canadian National of course has no income tax liability.
- (d) Canadian National Railways suggests that doubtless depreciation policies and reserves affect the credit or the market value of railway securities but that this is not the case with the Canadian National Railways as "the value of its obligations rests upon the guarantee of Canada and the balance sheet of the Railways is of no consequence, market-wise."
- (e) Canadian National Railways contends that under depreciation accounting, management does not see from the prescribed form of accounts the actual cash expenditures during the year.
- (f) Canadian National Railways maintains that "a tremendous amount of accounting would be required without any offset advantage in setting up depreciation of small units of property . . ."

Canadian National Railways suggests that there is probably something in favour of depreciation accounting in respect of a small road but, having regard to the size of the Company, its physical characteristics and the varying dates of the installation and the different service lives, a combined retirement and renewal basis best reflects the real expense of the year.

It makes the following statement with reference to roadway property:

"Canadian National consideration of this subject has led it to the conclusion that depreciation accounting, as applied to roadway property, should not be made mandatory. It considers as illogical the contention that depreciation accounting is essential to determine the true cost of maintenance, so long as the track structure is excepted. The adoption of depreciation accounting would not aid management in the control of maintenance expenditures; it would entail considerable accounting expense and its effect on the total operating expenses would be relatively quite small. But whatever arguments there may be, either for or against, Canadian National submits that its adoption is an impossibility until there is available an inventory of property units and a determination of their costs."

Canadian National Railways expressed the view that there should not be depreciation accounting for roadway property and that rolling stock should be depreciated on the straight line method and that this procedure should be made compulsory for both railways.

Canadian Pacific Railway Company

In the submission of the Canadian Pacific Railway Company are the following statements setting forth in concise form the Company's views on the advantages to the users of the railway service as well as to the Company of the user system of depreciation.

"60. One of the principal objects of a depreciation system is to charge currently against income an appropriate proportion of the cost of property and equipment used in producing transportation service. The user method, by directly relating the depreciation charge to the use made of the property and equipment, achieves this object. The resulting net income in periods both of high and low traffic volume is in the opinion of Canadian Pacific more realistically stated than if the straight line method were used."

"61. The user basis of depreciation is particularly suitable for railway operations because the volume of railway traffic and accordingly the use of railway property fluctuates more violently than in the case of other public utilities. Appropriate statistical measures of the use of railway equipment and property are available. This method has substantial advantages not only to the railway company but also to the users of railway service and tends towards a stabilization of railway employment."

There was general agreement on the part of the witnesses for the Company that the Board of Transport Commissioners should have jurisdiction over depreciation in so far as such charges affected rates. One witness for the Company expressed the opinion that the railways should be left free to choose their own methods of depreciation but agreed that the Board of Transport Commissioners should have power to determine the classes of assets to be made subject to depreciation accounting and the rates to be applied thereto. Another witness appearing for the Company expressed the view that the carriers should have freedom to select whatever method of depreciation they wished for corporate purposes but that one system should be prescribed for all carriers for rate-making purposes.

The Company has made a strong case for the merits of the user system through its written submissions, the evidence of expert witnesses, other cases brought forward, and in the arguments of Counsel.

Province of Manitoba

The Province of Manitoba gives a most complete statement and comment on the subject of depreciation. Its comments and recommendations are either repeated or endorsed by several of the other provinces making submissions on the subject. Following are the recommendations of Manitoba:

"For the sake of clarity, it seems advisable to list our recommendations at this point and then to develop each of them in some detail. On the question of accounting provisions for plant retirement, the Manitoba Government feels that your Commission should make the following recommendations:

1. That The Railway Act should be amended in such a way that it is made clear that the authority and responsibility for setting the retirement and renewal practices to be used for rate making, lies in the hands of the Board of Transport Commissioners and not in the hands of any interested parties, either the railways or the users of the service.
2. That the Board of Transport Commissioners should have the authority and the responsibility for determining which assets are to be treated on the basis of retiral accounting or of renewal accounting or of depreciation accounting.

3. That the Board of Transport Commissioners should undertake its own independent studies of service life of those assets which are to be handled on the basis of depreciation accounting.
4. That in dealing with those assets which are to be handled on the basis of depreciation accounting, the service life data should be calculated in terms of years rather than in terms of units of mileage or traffic volume. In other words, that the depreciation, where it is used, should be calculated on a straight line basis rather than on the present user system.
5. That the Board of Transport Commissioners should establish the necessary administrative machinery for maintaining a continuous review of all the above decisions."

Throughout that section of Manitoba's Brief dealing with depreciation, it is urged that the straight line method of depreciation accounting be used.

Manitoba's criticism of the user basis of depreciation is not directed at any attempt to recover the cost of capital assets from the users of the service, but arises from the fact that the amounts set aside in recent years have been too large and if continued on the same basis "the users of the service will be called upon to pay the full cost of the assets and a rather substantial sum in addition."

Manitoba agrees that the user system may have merit from the point of view of corporate operations and business management but that, in the opinion of Manitoba, there are no adequate records available to check the fairness of the user rates and that, therefore, the user system should be rejected for rate-making purposes.

Province of Nova Scotia

The Submission of the Government of the Province of Nova Scotia confines itself to the following general remarks on depreciation:

"The method of computing depreciation should be determined and the rates prescribed for all classes of assets."

Province of Alberta

The Province of Alberta makes the following statements:

"An extended Submission is being made by the Province of Manitoba with regard to depreciation accounting and we associate ourselves with the views expressed therein."

"The submission of the Province of Alberta is that the straight line method of depreciation should be adopted because it accurately reflects the annual depreciation if the lifetime of the asset is correctly estimated and it is a method relatively simple to administer. On the other hand, it is agreed that the user method of depreciation has merit where the incidence of use fluctuates as it does in railway operations. Should, however, the user method be recommended for adoption in Canada we would stress the need of the regulatory authority setting forth definite requirements concerning the information necessary to be supplied in order to determine the basic rate."

Province of British Columbia

The Province of British Columbia makes the following statement:

"In advocating uniform accounting under statutory authority we include the submission that the basis of depreciation or provision for retirement of assets be uniform in respect of all Canadian Railways and that the adoption of a uniform method of depreciation by all railways should be strictly enforced.

"We recommend that the regulatory body should require that the method of accounting for depreciation on all depreciable assets should be on a depreciation accounting straight line basis, similar to the basis presently required by the Interstate Commerce Commission.

"In our submission we have already intimated that while we have a definite preference towards straight line depreciation, the paramount consideration is that the

regulatory body should prescribe the method of depreciation to be followed after having satisfied itself as to the propriety of the rates involved, whether on a straight line or user basis."

H. ADVANTAGES AND DESIRABILITY OF UNIFORMITY IN REGULATIONS RELATING TO ACCOUNTING, DEPRECIATION PRACTICES AND THE SEGREGATION OF RAIL AND NON-RAIL ITEMS

Prior to the recent freight rate cases before the Board of Transport commissioners, it would not appear as if uniformity or the lack of uniformity in such matters as accounting and depreciation practices and the segregation of rail and non-rail items had caused much concern. However, an examination of the records in those cases and in particular the case arising out of the application of the Railway Association, dated 9th November 1946, and the supplementary application dated 12th December 1946, shows that a great deal of the time of the hearings was devoted to a discussion of the contents of various accounts and the propriety (for rate purposes) of the policies and practices followed by the railways in recording and reporting revenues, expenses, assets and liabilities.

While it would not appear necessary to quote at length from the records of the freight rate cases to show the difficulties encountered by the Board in endeavouring to distinguish between rail and non-rail items, the following quotations from the Judgment of the Board of Transport Commissioners for Canada, dated 30th March, 1948, will serve to outline some of the problems encountered as a result of the lack of uniformity in regulations relating to accounting practices, depreciation procedures and the segregation of rail and non-rail items:

"The Hon. Mr. Ralston, counsel for the Transportation Commission of the Maritime Board of Trade and the Maritime Provinces, contends that income tax should be excluded entirely from the operating expenses of the railways. With this view I am unable to agree. Income tax payable in respect to railway operating income is, I think, properly chargeable to railway operating expenses.

"For the Company it is also contended that it is impossible to segregate the income tax into two component parts, viz that portion derived from railway operations income as against that portion derived from ancillary services and investments and referred to as 'Other Income'. I am satisfied, however, that such a segregation could be made.

"As will be seen from the foregoing the whole enterprise of the Canadian Pacific Railway Company is somewhat closely integrated. And for this reason I have found considerable difficulty in appreciating the true situation of the company in respect to its railway operations.

"It may be that some part of the fixed charges of the Canadian Pacific are attributable to non-transportation enterprises. But because of the close relationship of railway transportation and other enterprises of the Company I have not been able to calculate with any degree of satisfaction what the amount, if any, may be.

"The question arises as to how long deferred maintenance may appropriately continue to be deferred. This question I am unable to answer on what is before us.

"Counsel for the respondents submitted that the Canadian Pacific Railway should have drawn upon their deferred maintenance reserve to some extent for maintenance of way and structures in 1947, and that its expenses for such purpose should be reduced accordingly. This I am not disposed to do.

"In making comparisons between Canadian Railways and United States Class I Roads some regard should be had to possible differences in conditions under which the respective Railways operate. The making of accurate comparisons between the Canadian Pacific Railway and Canadian National Railways is also difficult because of the lack of a uniform system of accounting and practices for Canadian Railways. This is a subject which, I think, should have further consideration at another time."

If the railway accounts had been prepared in accordance with uniform regulations in respect of accounting matters generally and depreciation procedures and the segregation of rail and non-rail items in particular, many of the problems

and difficulties referred to in the foregoing quotations would have been minimized, if not completely eliminated, and the time required for hearings correspondingly reduced. This in itself would seem to warrant the adoption of uniform regulations for such matters.

The views of all concerned, as an examination of the record will indicate, are almost unanimous in support of the desirability of uniform regulations in accounting procedures. There are, as will be seen, particularly from the Submissions of the railways, certain differences of opinion as to the degree of uniformity which can be achieved but it has not been suggested at any time that differences of that character are of importance as compared to the major advantages to be gained from the adoption of uniform regulations.

If uniform regulations are adopted relating to accounting matters, depreciation practices and the segregation of rail and non-rail items, the Board of Transport Commissioners will have available the necessary information to enable it to regulate such matters as come within its powers. In particular, as stated in the foregoing, it would eliminate much, if not all, of the time and argument now devoted to a discussion of the contents of the railway accounts and statements.

Uniform reports and accounts would assist the shippers and the public at large in forming a better opinion as to the results of the operations of the two great Canadian railways and in making comparisons, if they so desire, between the operations of those railways, and of the Canadian railways with the American roads, provided, of course, in this latter instance that the Canadian system of accounts is substantially comparable to that followed by the American railroads.

If there are any serious disadvantages which would arise out of the adoption of uniform regulations relating to accounting matters, depreciation practices and the segregation of rail and non-rail items, they have not been brought to light in the discussions before this Commission. Each railway has indicated that it would strongly object to any change in the depreciation policies it now follows. It has also been pointed out that, if the adoption of uniform regulations resulted in certain changes in accounting procedures, it would probably have the effect of distorting comparisons with prior years. These objections do not seem to be sufficiently serious to deserve much weight in a consideration of the matter when the major advantages to be gained from the adoption of such a system are taken into account.

I. CONCLUSIONS

After a consideration of the evidence and the arguments, the following conclusions have been arrived at:

- (1) That uniform accounting regulations, depreciation procedures and the segregation of rail and non-rail items are all inter-related and all have as their object the production of adequate and reliable information for management, regulatory authorities and others interested in rail operations and investments.
- (2) That the railways and the provinces appear to agree in principle on the desirability of uniform regulations governing accounting procedures, depreciation practices and the segregation of rail and non-rail items. As a rule any attempt by the state to extend regulatory controls is resisted by the interests affected. It is perhaps significant that no objection has been raised by the parties concerned as regards the desirability of a uniform code of accounts to be established under the authority of the Board of Transport Commissioners. The only question that has been raised is the degree of uniformity that is practicable and desirable. This is an administrative problem rather than one of principle and has not been taken into consideration here.

- (3) The two railways and all the Provinces, with the exception of the Province of Saskatchewan, seem to attach importance to having rail and non-rail items segregated on a uniform and consistent basis and all the Provinces agree that the Board of Transport Commissioners should have the power to determine what items shall be classed as rail and what as non-rail. While the absence of a clear-cut segregation of rail and non-rail items in the past has resulted in inadequate information being available for the consideration of rate applications, it has been stated by the Board of Transport Commissioners that in the case of the Canadian Pacific Railway Company the merging of revenues from rail and non-rail activities in a common treasury and the use of all surplus funds for rails operations, has been beneficial to the railway company and to the users of its service. This view appears to be sound and nothing heretofore said regarding segregation of assets is intended to mean that the Canadian Pacific Company should be in any manner restrained in the use of all funds at its disposal for railway purposes.
- (4) It would seem clear that there is complete agreement that regulations governing uniform accounting, depreciation practices and the segregation of rail and non-rail items should not be set out in a statute but that appropriate powers should be conferred on the Board of Transport Commissioners, instructing it to promulgate the necessary regulations and to supervise their execution.
- (5) It would appear that much useful work was done by the committee appointed in February 1939 by the Right Hon. C. D. Howe, then Minister of Transport, to consider a uniform classification of accounts for Canadian railways. The work of this committee should prove a useful groundwork for a further detailed consideration of the problem. Undoubtedly the Board of Transport Commissioners will want to discuss with railway management any classification of accounts, code of depreciation policies and segregation of rail and non-rail items, but the important point is that uniformity is desirable and the Board must be given the express power and direction to bring about the uniformity regardless of whether or not the two major railways agree, and this uniformity should be brought about with utmost despatch.
- (6) The Interstate Commerce Commission classification is followed in large measure and the advantage of using that classification has been stressed in Provincial submissions. It would appear that there are sufficiently important differences between the situation in Canada and the United States to warrant a careful scrutiny of all accounts to determine whether some variation from the said classification may not be necessary and desirable.
- (7) All the discussions on the subject of uniform accounting, depreciation and the segregation of rail and non-rail items have had reference to the accounts of the Canadian National Railways and the Canadian Pacific Railway Company. If a uniform classification of accounts is adopted, it would seem obvious that the principle of such a classification should be applied to the smaller roads, but it is suggested that a simplified classification would serve both the purpose of the railways and the needs of the Board of Transport Commissioners.
- (8) It should be remembered that uniform classifications, uniform depreciation regulations and the segregation of rail and non-rail items on a uniform basis will not result in similarity in all cases. However, uniform regulations should serve to bring out differences between the railways and eliminate some of the confusion which now exists when comparisons are made.

- (9)(a) Any system of depreciation which distributes the cost of the asset over the estimated useful life in a rational or systematic manner is worthy of consideration.
- (b) While from the point of view of management there is merit in the user system of depreciation under which the charges fluctuate in accordance with revenues as do most of the expenses of the railways, the evidence indicates that the user basis presents serious problems to a regulatory body in its application and supervision.
- (c) Notwithstanding the merits of other systems the straight line method of depreciation would appear preferable for rate making purposes and is generally used by regulatory bodies because it is easier to apply and check than any of the other recognized methods.
- (d) It is recognized that the absence of detailed investment figures relating to the Canadian National Railways roadway property might render the application of depreciation accounting difficult. However, it would not seem as if the difficulties stemming from this situation should be permitted to stand in the way of uniform accounting if it is deemed desirable to apply depreciation to roadway property.
- (10) The regulation of accounts requires first, the adoption of uniform terminology for all rail accounts, together with detailed instructions as to the items to be charged or credited to each account; and second, a system of supervision to ensure that the instructions of the regulatory body are being carried out.
- (11) Regulation and supervision of rail accounting and statistics is essential to the effective regulation of rates and tolls. Effective rate regulation should rest on factual information compiled in a uniform manner from the carriers' records. Informed action on the applications for rate changes is possible only when reliable operating data are available. It appears that present statistical reports as prepared by the railways are inadequate for the purposes of the Board. Sections 379 and 380 of the Railway Act do not appear to give the Board sufficient authority over the production of the statistics which it should have for the performance of its duties.
- (12) Many of the complaints which had been levelled at railway statistics have arisen from the lack of certainty that particular accounts and operating figures of one railway could properly be compared with those of another railway or with the figures for previous years of the same railway, even when the items which it is sought to compare have been reported under similar headings and on similar forms. These complaints would appear to have some foundation and, as has been stated in respect to uniform accounting, constitute an important argument in favour of the adoption of a uniform code of accounts. The adoption of uniform accounting practices under the supervision of the Board of Transport Commissioners will remove the uncertainties which have existed in the past and will serve to reveal differences which may require special consideration by those using the reports.

Statistical and financial reports covering the railways' operations and "necessary to a full disclosure of all facts relevant to the determination of the level of freight rates to be charged in Canada" should be designed by the Board of Transport Commissioners primarily with a view to ensuring that the Board has the necessary information to enable it to regulate such matters as come within its powers.

J. RECOMMENDATIONS

It is accordingly recommended:

That the Railway Act be amended so that the Board of Transport Commissioners shall:

- (a) Be empowered and directed to prescribe as soon as practicable a uniform classification and system of accounts and reports for rail items for the Canadian National and Canadian Pacific railways. Such classification and system of accounts and reports to distinguish clearly between rail and non-rail items. Since each of these companies not only owns certain railways but controls, leases and operates other railways, the question will arise whether some of the smaller roads in this category, should be compelled to adopt such classification. This is a matter of detail which the Board will be in a position to decide. The point to be stressed is that the uniformity must be such that comparisons of operations between the two major systems may be readily made.
- (b) Be empowered to prescribe a simplified classification of such accounts and reports for railways (other than the Canadian National and Canadian Pacific railways) subject to the jurisdiction of the Board.
- (c) Be empowered and directed to prescribe as soon as practicable for all railways subject to its jurisdiction the classes of property for which depreciation may properly be charged in the rail accounts, and the rate or rates to be charged with respect to each class. Whatever system and whatever rates of depreciation are approved by the Board should be accepted for income tax purposes, because it might be said to be unfair to have depreciation charges approved by a regulatory body such as the Board and then disallowed in determining income tax liability.
- (d) Be empowered to carry out such inspection and examination of the accounts of the railways as the Board deems necessary.
- (e) Be empowered and directed to institute and maintain a statistical procedure so designed as to provide the requisite data necessary to the performance of its duties.