The Railway Rate Problems of Western Canada with Particular Reference to British Columbia

by

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Chapter I

THE NATURE OF CANADA'S RAILWAY PROBLEMS

There is no public question in Canada at the present time of more importance, or requiring more attention, than the problem of the railways. We are told, that during the present session the Dominion Parliament will be occupied chiefly with transportation matters. It is generally felt that Parliament must do something. But what will be done? No cure-all remedies satisfactory to all concerned have as yet been made public. In all probability, however, important and far-reaching legislation will be enacted. It is also likely, that this legislation will take the form of concessions to the demands of various sections of the country and be opposed to the interests of the railways. In other words, this means lower tolls with the government making up the deficits to the railways. In a situation so complex and so full of difficulties as the present one, it might be hoped that a body with more practical experience in railway affairs and to which there could be attached no suspicion of serving political ends, was to deal with the problem. There is one thing certain, however, and that is that our railway problem will remain with us for some time to come.

A railway problem demanding immediate attention is not a novel experience to Canadians. In fact, Canada has never been without a serious problem of some sort in connection with her railways. It might be said, indeed, that there was a railway problem before there ever was a mile of railway track laid.

Canadians began planning railways just about a century ago. In a country so large and so extensive as Canada and containing vast areas many miles distant from the sea, the need for and importance of steam railways can hardly be exaggerated. The draw-backs to travel and communication in the pre-railway era were well recognized, and it was because of this that early Canadians became very interested in this new means of transport. It was planned to run a railway from the St. Lawrence to the ~~Canad~~ Acadian colonies and another to connect with United States' centres. These projects were discussed with a great deal of enthusiasm.

Not a mile of railway line, however, was built in the '20s. Canadians were faced with their first railway problem and one which was to be of the first importance for many years. It has not, even yet, entirely disappeared. This was the problem of attracting capital to the building of Canadian railways. The Intercolonial Railway was not built till after Federation, though in this period it got as far as the surveys.[1] The second project, ~~was~~ also, was

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[1]The proposed railway was to run through the territory in dispute between New Brunswick and Maine and was abandoned. There were a number of other schemes for an Intercolonial Railway after this, however, but sufficient capital could not be raised to carry them out

not carried out for many years, but it resulted in the building of Canada's first railway -- the St. Lawrence and Champlain. This was begun in 1832 but did not begin operating until 1836. It was only thirteen miles long, and had taken four years to build! In ten years not another mile of railway had been built in British North America. In the meantime the United States had been steadily building railways for twenty years, though the railway mileage of the time was quite insignificant in comparison with the present total. But Canada had hardly begun railway building. The reason was simply that capitalists did not consider Canada a particularly good field in which to invest.

Finally, the legislature of the United Canadas decided that if railways were to be built it must step in and help. An act, known as the Guarantees Act, was passed in 1849 in accordance with which the government undertook to guarantee the payment of interest on the bonds of any railway which should not be less than seventy miles long. This began a new chapter in Canadian railway history. It brought the Grand Trunk and the Great Western into being in the '50s -- the two railways which were to dominate the field and become bitter competitors until finally amalgamated in 1883.

Railway building on a large scale gave rise to new problems. The old problem of getting railways built, attracting capital, and opening up various sections of the country continued as before. But now the government was committed to guaranteeing the interest on railway bonds. It was soon called in to help the financing of the operation of the railroads. Getting the railway built did not end the financial difficulties. The trouble first came when the Grand Trunk got into difficulties in the late '50s. It had begun by making profits, but now it was incurring losses. Thus the government became committed to a policy of helping the railways with loans, subsidies, bond guarantees, land grants and so on. The government has given enormous sums to the railways. It is blamed for helping weak roads to be created -- roads which cannot earn dividends. But the government's policy in the past must not be two severely censured. The need for railways was great -- there could be no Dominion of Canada without the railways -- and government aid was necessary if they were to be built and properly operated. It was the unjustified optimism of the government and people, however, at various times in the past which is the cause of most of our present-day troubles.

There were some complaints about rates in the pre-Federation period. Local and non-competitive rates were generally very much higher than through and competitive rates. Toronto had a standing complaint against the railways of being discriminated against with respect to Montreal. Rates from the latter city eastward to Toronto were lower than the rates in the other direction. But Nothing was done to remedy this ~~, however~~. The old belief in competition as a regulator of râtes had not died. Moreover, the railways were in a none too healthy condition financially, and it was thought that interference with them would be very unwise. Railways, at this time, were regarded as a great blessing to the country and the servants of the people. The later conception of the railways as soulless corporations, charging as much as they can, and quite devoid of any interest in the welfare of the people, had hardly arisen. This latter attitude towards the railways has, for the most part, fortunately ~~been abandoned~~ changed.

Federation made the Intercolonial Railway necessary. It was built and operated by the government. It has never earned any profits, but rather has incurred heavy losses every year. Rates have always been low, and the Maritime Provinces have strenuously and successfully resisted every attempt to raise them. They consider the low rates of the Intercolonial as one of their constitutional rights, claiming that it was part of the Federation pact that the markets of Central Canada be substituted for those they gave up in New England. So the government has made up the deficits year by year from its general revenue. The Intercolonial is now, of course, part of the National Railways system. The people of the Maritime Provinces would seem to be entitled to every consideration in this matter of rates, but at the same time keeping the rates on the railways in this territory artificially low is one of the many obstacles to a satisfactory solution of the present day problem. It is only fair to add, ~~however~~, that a large part of the losses incurred by the Intercolonial were due to poor and wasteful political management. The railway had far too many officials and employees, and probably politics played too large a part in their appointment. Also, the railway was given a roundabout route, this being chiefly for military reasons, and was not allowed to come close to the United States' boundary. As part of the Canadian National Railways the old Intercolonial is being much more efficiently managed than before.

Federation made possible a much greater railway -- the Canadian Pacific. This railway was the result of the agreement between the Dominion and British Columbia with respect to the latter's admission into Federation. This ~~xxxx~~ agreement will be examined more fully later on,[1] for it is the source of another claim to a "constitutional right" to lower rates, which in my opinion is not very well founded. The Canadian Pacific brought the problem of Western rates, which is the chief source of present rate grievances. The financing of this railway was, however, the earliest problem. In the absence of a private company willing to undertake the building and the operation of the railway until 1880, the government for ten years was faced with the necessity of doing this itself. The early attempt of a private company to undertake the railway

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[1] Chapter III.

ended in an attempt to bribe the government, a public scandal, and a defeat to the government. The Mackenzie administration was left the task of building the railway to which they had always been opposed. No private corporation came forward now asking for a charter. Financing the railway threatened to ruin the country. Work proceeded slowly, and British Columbia was continually protesting at the delays -- even going the length of threatening to secede from the Dominion. Mackenzie worked hard and conscientiously, but his task was a thankless one. Finally, with Macdonald back in power once more, a private company was formed to take over the existing railway lines and complete the railway. Besides the lines and equipment already in existence, the company received great land grants in the West as well as much direct financial assistance. For a decade the Pacific Railway had been the leading public issue.

The '80s brought the earliest rate complaints from the West, and these were of a serious nature. Manitoba waged a long fight against the Canadian Pacific, and in the end succeeded in having the Railway's monopoly clause annulled. This monopoly clause in the Canadian Pacific charter had been thought to be the cause of the rate grievances in the West, but it was realized afterwards that this was not the case. In the East, too, rate grievances were very much to the fore. Complaints of discrimination, rebates, unstable rates, etc., as well as the general tendency of the railways to act in an arbitrary manner, were very common. The matter of rate regulation received a great deal of attention both inside and outside Parliament, but nothing really effective was accomplished until the Board of Railway Commissioners was created in 1903.

The last two decades of the nineteenth century were, too, an era of amalgamation. The most important instance of this was the absorption of the Great Western by its great rival, the Grand Trunk. But many other small railways were absorbed -- mostly by the Grand Trunk, but a number by the Canadian Pacific. The position of the Grand Trunk, however, was not altogether secure, for the Canadian Pacific had begun to make inroads into most of the best paying territory of old Canada.

The early years of the twentieth century witnessed three important events. One was the formation of the Railway Commission which was a long step in advance in the matter of the settlement of rate difficulties. Recent events indicate that we must go farther ahead still in this respect. The other two events were the beginnings of two new transcontinental railways -- the Canadian Northern and the Grand Trunk Pacific.

The Canadian Northern originated in Manitoba, spread over the Prairie West, and was operated successfully. Then, Messrs. Mackenzie and Mann, who between them owned and operated the whole railway, became ambitious to invade wider fields. A line was pushed through to the Pacific Coast at

Vancouver. A line was built into the East with Toronto as the terminus, and a number of branch lines also built in this territory. But the Canadian Northern in Eastern Canada was not strong enough to compete with its rivals, and the eastbound traffic which the railway had hoped to gain from the Canadian Pacific did not meet expectations. Despite heavy government assistance -- and the Government gave the Canadian Northern more aid than it has given any other railway -- the enlarged railway was not a success. The increased costs of operation brought about by the ~~war~~ Great war resulted in frequent calls upon the government for more and more help. To all intents and purposes the government owned the railway, so heavily was the latter obligated to it. In the end the government assumed the ownership of the railway and its debt itself.

The Grand Trunk, too, became ambitious to conquer wider fields; and ~~particularly~~ to get an adequate share of the large traffic from the West which the Canadian Pacific retained for its own Eastern lines, decided to invade the West. The railway sought the co-operation of the government, and saw the original plan completely altered for political purposes, but the railway finally agreed to it. By this the Grand Trunk was to build a railway -- the Grand Trunk Pacific -- from Winnipeg to the coast at Prince Rupert with heavy government assistance. From Winnipeg to the Atlantic Coast, the government was to build a railway across the hinterland of Ontario and Quebec. This railway was to be known as the National Transcontinental and ~~was to~~ be operated by the Grand Trunk according to the terms of a lease. The rental was to be based on the cost of construction of the line. When this cost was found to be just about three times what the estimated cost had been[1] the Grand Trunk refused to have anything to do with this line. The government, while legally entitled to force the Grand Trunk to carry out the terms of the contract, allowed that railway to back out of the contract and began operating the National Transcontinental itself. The Grand Trunk was in effect released unconditionally. But the Grand Trunk Pacific could not earn even operating expenses. It ran through undeveloped territory, had practically no branch line feeders, and terminated at a place which the railway itself had to call into existence. Moreover, the Grand Trunk Pacific was separated by a thousand miles from the parent company's lines. The War made it impossible for the Grand Trunk to continue to bear the burden of the Grand Trunk Pacific for which it was heavily obligated. The Grand Trunk asked only to be relieved of its Western obligations, in which case it felt it could worry through successfully. This the government

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[1] \$159,881,197 as against \$61,415,000. See Drayton-Acworth Report, 1917, page xxiii.

would not permit, and when the government was forced to take over the Grand Trunk Pacific so as to enable it to continue to operate, it took over the Grand Trunk as well -- much against the latter's will. The government now owned the Intercolonial, the National Transcontinental, the Canadian Northern, the Grand Trunk, the Grand Trunk Pacific, the Prince Edward Island Railway, and a number of short lines chiefly in the Maritime Provinces. These lines were very wisely consolidated into one system -- the Canadian National Railways -- although the government did not strictly follow the recommendations as outlined in the Drayton-Acworth Report, which insisted that the railway be absolutely beyond interference from Parliament.

What is the situation to-day?

There are about 41,000 miles of railway line in Canada to serve less than 9,000,000 people. Reckoned in this way, no country in the world is so well served with railways. In Canada there is a mile of railway line for about every 225 people. The United States has over a quarter of a million miles of railway line -- about a third of the world's total -- but each mile must serve on an average about 440 people. In the European countries the proportion of the population to the railway mileage is very much larger.[1]

But this boast of Canada's is an expensive one. If each mile of railway line serves only 250 people, it is

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[1]The area of the country in proportion to the mileage is in many respects a better test of how well the country is served by the railway. In Canada, of course, railway mileage is very unevenly distributed.

also true that there are only 250 people to furnish traffic for each milex. This means, that Canada has a railway mileage much too great for its population, and a railway system for which there is not sufficient traffic furnished. It is hoped and expected that time and increasing population will cause matters to adjust themselves. It is very unlikely that Canada will embark upon railway enterprises on a large scale for some time in the future. In the meanwhile we have a problem -- and a most serious one -- namely, the fixing of a general rate level, not too high to impedex the movement of traffic, nor too low to cause heavy deficits.

The problem as it thus stands is difficult enough. But a number of other circumstances make it still more complicated. In the first place, nearly the whole mileage is divided between twox railway systems. These lines compete at every point of importance, and at the few points at which they do not -- as Sydney, Nova Scotia, and Charlottetown, Prince Edward Island, there is intense water competition. Neither railway, therefore, has any large field to itself in which it can recoup itself for losses due to competition as elsewhere. The fact that both railways serve the whole country also means that neither is particularly interested in building up anyone section of the country to the serious injury of another -- a sharp contrast to the condition of affairs in the United States.

Then, the character of the two railways must be considered. One is a government owned ~~territory~~ railway serving a good territory although certain parts of it are as yet not fully developed, but weighed down with a tremendous burden of fixed charges. The other is a privately owned railway earning dividends of 10% annually. In attempting to relieve the burdens of the National Railways, the position of the Canadian pacific must always be considered. Evidently, a general rate level suitable to one would not be in the interests of the other. Yet this general rate level must be the same in the two cases. There is one point to make, though, and that is that it would be unwise to try any experiment with the Canadian Pacific. Reflecting as it does the general confidence of outside capital in Canada, anything which will tend to destroy its earning power might have serious results. The fear of bankrupting this railway and adding it to the National Railways' problem should be sufficient to prevent any rash experiment. It is for this reason that it is the Canadian Pacific -- in the West, at least -- which determines the general rate level. If the National Railway began cutting rates, however, it would have the Canadian Pacific at its mercy.

Another source of trouble is the claims of different sections of the country to rates arbitrarily low or within a certain maximum limit. The Maritime Provinces demand low rates as their compensation for entering Federation. British

Columbia, for a similar reason, demands rates at least no higher than the Prairies. The latter in turn hold up an agreement -- the Crow's Nest Pass Agreement -- made in 1897 to suit conditions and grievances as then existing in the West, and claim that it fixes the maximums above which certain rates may not go. Such matters as these serve to ~~greatly~~ complicate the situation greatly. The Maritime Provinces may be considered as entitled to special consideration. But the effect of these other claims is to ~~practically~~ prevent the rate structure being made to fit economic conditions, and makes the problem much more difficult to solve. The West should base their claims for rate adjustment, not on such things as the Crow's Nest Pass Agreement, but on equity and economics.

It has been generally found that shippers are quite satisfied with rates, no matter how high, so long as the rates they pay are no higher than those of their competitors. It is for this reason that complaints arise out of unequal rates, and not because of high rates which all competitors pay. In Canada, unfortunately, different sections of the country pay unlike rates for like service. In a number of cases this works to the detriment of shippers in different places. Geography is the principal cause of the inequality. The splendid system of inland waterways in the East ~~has~~

h- as well as the competition of United States' railways -- has served to keep rates there down to the level at which traffic can be taken by the water-carriers.[1] This influence is felt by the railways all year round, for if rates were raised during the season closed to navigation all the movement would tend to be during the summer, goods for winter consumption remaining in storage. Having to keep Eastern rates so low, the railways have been forced to recoup themselves by high rates in the West. Just how much higher Western Rates are is hard to determine because of a fundamental difference in the relation of the various classes to each other, and also because of differences in the nature of the traffic. The tendencies, however, towards equality may be noted. Equality is, of course, desirable if at all possible.

British Columbia has a further grievance. The rates she pays are generally higher even than Prairie rates. These higher rates have been claimed by the railways to be necessary to meet the higher costs of construction and operation in the mountains. British Columbia argues that this does not justify higher rates, and has pushed her case with vigor. Equality she has not gained as yet, but has accomplished a great deal.

Another phase of Canada's rate problems to be examined, is that of allowing the Pacific coast ports to serve as the exporting and importing channels for Western Canada. The Panama Canal has made this possible. The problem here -- from the public viewpoint -- has chiefly to do with the

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[1] Rail rates may be slightly above water rates because of better service rendered.

dislocation of the existing industrial and commercial structure.

Our present-day railway problems are the legacy of the past. The rate structure in Canada is so tangled and complicated that it would obviously never have been imposed on the country all at once. It just "grew up." The approach to the examination of the problems pointed out above will for this reason be historical. Only the broad problems of rates can be dealt with in this thesis. Rate problems peculiar to the East alone, will not be considered. It must be constantly borne in mind, however, that the problems of any one section of the country cannot be isolated and treated separately. Besides the underlying fact that the same railways serve all the sections of the country, these sections are bound together too closely -- politically, industrially, and commercially -- to permit such simplified treatment.

Chapter II

RATE REGULATION[1] IN CANADA

In 1894 a Commission was appointed to investigate the rates being charged by the Canadian Pacific in the West, whence many complaints had come. This Commission reported, that since the welfare of the railway was so closely bound up with the welfare of the settlers, it would be suicidal for the railway to charge any rates but those which would promote the prosperity of the West.[2] It is strange that even at that time such a report should have been submitted. Certainly, the fallacy in the statement is very evident to-day. No one questions the necessity of public interference in the determination of rates. If the railways were left free to fix their tolls subject to no outside interference at all, rate adjustment in the public interest as opposed to the interests of the railways would be impossible and the public would be wasting its time in stopping to consider railway problems.

To what extent, then, has the public -- through the agency of the government or courts -- assumed control of the rate-making process? What remedy has the shipper who is dissatisfied with the rates he is asked to pay? It is well at this point to examine the manner in which Canada has tackled the problem of rate regulation, and to see what has been accomplished; for adequate rate adjustment is

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[1]The public have also interfered with the free-working of the railways in order to insure such things as adequate service, proper safety devices, and so on. But rate regulation is by far the most important phase of railway regulation.

[2]Can. Sessional paper No. 39, 1895.

possible only where there is adequate regulation.

In the early days of the railway in Canada we find but little evidence of interest in rate regulation. To begin with there were other railway problems of a more pressing nature. If the government had demanded a share in the rate-making as an essential condition to the granting of a charter, very likely no railways would have been built at all. The railways in existence were in a none too flourishing condition as things stood, and outside interference with their rates would probably have done more harm than good at this period.

Those who thought about the matter at all were generally satisfied that competition would settle any difficulties that might arise. If the railways were growing too wealthy because they were charging extortionate rates, competitors would quickly enter the field and the rates would be forced down. The price of railway service was thought to be determined like the price of anything else -- by the interaction of supply and demand. The many differences between a transportation company and a manufacturing one were not appreciated. At first it had been supposed that the railway would develop along the same lines as the canal. That is, the ownership of the track would be separate and distinct from the owner ship of the rolling-stock. The owners of the cars would pay tolls for the right to use the track, and competition would be a sufficient rate regulator. It was in accordance with this supposition that the legislature of Upper Canada granted a charter to the Cobourg Railway in which the directors were given complete control over the railway's tolls.[1] It was soon seen that the railway was to be unlike the canal, but the faith in competition was not shaken.

For the earliest signs of regulation we must look to the charters issued to the railway companies. There was some notion of the public nature of the railways, and charters were rarely issued in which there were not provisions for some checks on the rates if profits became too high. The charter of the Liverpool and Manchester Railway contained a clause making rate reduction necessary when the railway's profits should exceed a certain percentage. This idea was borrowed for the early railway charters in Canada. The charter of Canada's first railway -- the St. Lawrence and Champlain -- contained such a provision. Rates were to be reduced one-fourth if ever the railway should be pay dividends in excess of twelve per cent.[2] The New Brunswick legislature put a similar provision into the charter of the New Brunswick and Quebec Railway, but the railway was dealt with even more leniently. Rates were not to be lowered until profits became greater than twenty-five per cent, the reduction in which case to be sufficient to reduce the profits to twenty-five per cent, but there was

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[1] Canadian Sessional Papers, 1902, No. 20a, page 34.
[2] ibid.

to be no compulsory reduction until the railway had been in operation for ten years.[1] Control after this fashion meant no control at all, for there was but the remotest possibility of these early railways earning the maximum profits permitted. In 1846 Mr. Gladstone, then Colonial Secretary, in urging a systematised railway policy advised the colonies to allow the railways to make a fifteen per cent dividend before there should be any interference with the rates.[2] This fifteen per cent limit became the settled railway policy for some time.

Another form of indirect rate regulation found in a number of these early charters is that of providing for state purchase. United States' experience was the source of this idea.[2]

The charter of the Atlantic and St. Lawrence Railway, granted in 1845, marks a new departure. When net profits should exceed twelve per cent the government was to collect a tax equal to one-half of all such profits in excess of twelve per cent.[3] This would not result in a reduction of rates, but would enable the government to share in any unlooked -for prosperity of the railway.

Other new ideas began to appear in the charters about this time. The St. Lawrence and Atlantic Railway (1845) was required to charge tolls "equally to all persons under the same circumstances."[4] Tolls fixed by the railway directors but subject to the approval of the Governor-in-Council was a requirement in the charter of the Canada, New Brunswick

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[1] Can. Sess. Pap. 20a, 1902, p. 34. [2] ibid [3] ibid
[4] ibid. Nearly all these early railways never even reached the stage of commencing construction.

and Nova Scotia Railway granted in 1847.[1] In a number of charters of the same year it was provided that the railways must post up their rates in public places.[2]

Canada was the first colony to attempt to formulate a general law, beginning in 1846.[3] From 1847 on it was stated explicitly in the charters issued to the railways that the railway should be subject to any general Act passed in the future, and that the charter might not be pleaded as a special contract.[4] Finally, in 1851, the Railway Clauses Consolidated Act was enacted. By it "tolls were to be fixed by the directors subject to the approval of the Governor-in-Council, and there were to be no preferences."[5] This remained the general policy for some time. In actual practice the approval of the governor to the rates did not mean very much. The railways were allowed a free hand in determining their tolls.

The legislature of Nova Scotia about this time declared that there should be no preferences, but there was no explicit statement to this effect in New Brunswick until 1864.[6] In 1853 Nova Scotia enacted that the Governor-in-Council should approve of the tolls before they should become operative.[7]

Rate grievances began to come prominent in the '60s but nothing further was done in the matter of regulation.

After Federation rate problems continued to attract more and more attention. The first Dominion Railway Act,

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[1] Can. Sess. Pap. No. 20a, 1902, p. 34. [2] ibid [3] ibid [4] ibid [5] ibid [6] ibid [7] ibid

passed in 1868, introduced no new principles. In 1873 a bill was introduced to parliament which provided for equal mileage rates, but set up no commission to enforce it.[1] The Committee on Railways, Telegraphs and Canals made an investigation of methods of regulation in 1875, but nothing was done.[2]

The interest in rate questions continued to increase, particularly during the decade from 1880-1890. The old faith in competition as a regulator had gone. A number of efforts were made to secure legislation properly to regulate the rates, notably by Dalton McCarthy who urged the formation of a Dominion Railway Commission.[3] But the railways were too strong to permit anything to be dome.

The formation of the Interstate Commerce Commission in the United States in 1886 prompted the government to appoint a royal commission with Sir A. T. Galt as chairman to consider the matter. This commission found a number of specific grievances and recommended specific remedies, but thought that an extension of the powers of the Railway Committee of the Privy Council would settle the general question.[4]

The findings of the Committee were embodied in the Railway Act of 1888.[5] The Railway Committee of the Privy Council, which consisted of certain members of the cabinet with the Minister of Railways and Canals as chairman, was given the power to supervise rates and hear and decide upon

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[1]Sess. Pap. 1902, No. 20a, p. 35. [2]ibid.
[3]See O. D. Skelton, The Railway Builders.
[5] 51 Vict. c. 29

complaints. At the same time rebates and other forms of discrimination were prohibited, and provision was made for a uniform Canadian classification.

The extension of the powers of the Railway Committee seemed a long step ahead, but in reality conditions were not very much improved. From 1889 to 1896 the Committee heard 408 cases but only seven of these dealt with rates.[1] Simon J. McLean, who was appointed as special commissioner in 1899 to report on the operation of the railway commissions of England and the United States and to consider the advisability of setting up a similar body in Canada, commented on this as follows: "This slender list of cases would on the face of it, indicate that the rate question on which so much stress has been laid occupies a minor position in Canada. It is difficult to accept this conclusion, however, in the face of complaints about rates which have been prevalent in recent years. ......It must be remembered that process before the committee is expensive. It is necessary for the complainant to come to Ottawa. . . . Then again parties may, even after lodging complaint, be afraid to pursue the matter because of the rate power possessed by the railway. Many legitimate complaints do not come before the ~~tribunal~~ existing tribunal."[2] The Rate Committee could not deal with the existing grievances in any adequate manner. There were five important ~~eff~~ defects in its organization, viz.:

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[1] Can. Sess. Pap. 1902, No. 20a, p. 37. [2] ibid.

(1) Its dual function -- political and administrative.

(2) Its inability to move about the country and settle complaints in the locality in which they existed.

(3) The great expense which complainants were under in being compelled to go to Ottawa.

(4) The lack of technical training of the members of the Committee.

(5) The Committee's lack of permanence.[1]

As the Committee plan actually worked in practice there was another important defect; the Minister of Railways and Canals tended to be the committee himself. Nothing important could be done without him. If he took little interest in regulation, the committee was allowed to slumber. And he was the only one who had properly studied the technical questions.

Mr. McLean in his report strongly urged the formation of a Canadian Railway Commission. He enumerated fourteen duties which it should have. With respect to rates it should have "transferred to it all regulative powers in regard to rates, preferences, discriminations, rebates and secret rates possessed by the committee" and "power of supervision in regard to through rates and through routes."[2]

This report was not acted upon at the time, but Mr. McLean was again appointed a special commissioner in 1901, this time to investigate existing rate grievances.

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[1] Can. Sess. Pap. 1902, No. 20a, p. 37-8. [2] ibid p. 39.

A long list of grievances was outlined. Existing classifications were often unsatisfactory. Distributive rates west of Winnipeg were full of discriminations. Car-load and less-than-car-load rates were often out of all proportion. In many cases rates appeared to be excessive, and a great deal of discrimination was being practiced. Rates on non-competitive traffic were out of all proportion to competitive rates. The railways were giving American goods passing through Canada lower rates than Canadian goods. Minimum weights were a frequent source of complaint. Rebates were evidently prevalent. The settlement of claims was a long and tedious process. Rates were subject to change without notice to the great inconvenience of the shippers. Through rates -- that is, rates on traffic travelling over more than one line -- gave rise to many difficulties. Rates into the West were generally unsatisfactory, and the transcontinental rate structure greatly displeased interior British Columbia points. Mr. McLean concluded his report by pointing out the great necessity of creating a regulative tribunal, and giving it wide powers. Such a Commission could not bring about Utopian conditions, but it could improve conditions to a very considerable extent.[1]

Following this report, Parliament set up the Board of Railway Commissioners by an Amendment to the Railway Act.[2] This act was passed in 1903 and ~~ts~~ was to become operative

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[1] Can. Sess. Pap. 1902, No. 20a.
[2] 3 Edw. VII, c. 58.

February 1, 1904. This Act, a very long one, dealt with a great many matters other than rates alone. The creation of the Board of Railway Commissioners with the powers conferred upon it, was, however, the most important feature of the Act.

As organized by the Act of 1903, the Board was to consist of three members to be known as the Chief Commissioner, the Deputy Chief Commissioner, and an ordinary Commissioner. The Chief Commissioher must be, or have been, a Judge of a Superior Court of Canada, or of any Province of Canada, or else ~~have~~ be a barrister or advocate of at least ten years standing at the Bar of any Province. The qualifications of the other two were not specified.[1] The appointments are made by the Governor-in-Council and are for ten years. No member of the Board may be more than seventy-five years of age.

In 1908 the Railway Act was again amended[2] so as to increase the membership of the Board to six. The members were now a Chief Commissioner, an Assistant Chief Commissioner, a Deputy Chief Commissioner, and three Commissioners. The qualifiaations of the Assistant Chief Commissioner were to be the same as those of the Chief Commissioner. This is the present constitution of the Board.

The Board has extensive powers with regard to the location, construction and operation of the railways

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[1]McLean's report had advised a Commission of three -- one to have a standing as judge or lawyer, another to be an experienced business man, and the third a man experienced in railway transportation

as well as over rates. Originally the Act applied only to railways, but later jurisdiction over express, telegraph, and telephone companies was given to the Board. The powers of the Boardx over these latter classes of companies are not so great as over the railways, and are mostly to do with rates. The Board has as yet no control over the inland water carriers, although the advisability of this has been repeatedly urged both in and outside Parliament.[1]

The Board's jurisdiction over rates is wide. Under the Act, passenger tariffs are divided into two classes -- standard and special. There are three classes of freight tariffs -- standard, special and competitive. Standard tariffs quote tolls on a mileage basis. The country is divided up into a number of standard tariff territories, each with its special tariff. Standard tariffs apply generally to the whole territory, and do not give the tolls between particular places. The tolls in the standard tariffs are the maxima which may be charged, and are used only in the absence tolls in special and competitve tariffs. The traffic moving under tolls in standard tariffs is small -- about fifteen per cent of the total. The bulk of the traffic moves under tolls in the special tariffs. These consist of rates which the railway companies may see fit to put in force on the movement between particular places. They are necessarily lower than standard tariff tolls. Competitive tarxiffs deal with tolls from or to places which the Board

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[1] Mr. J. E. Armstrong of Sarnia, former Member for Lambton East, tried for many years to interest Parliament in the regulation of the inaand water-carriers. Of late years the subject has received more attention, been investigated by

may declare to be competitive points. Rates from or to such places may be allowed to violate the long-and-short-haul clause of the act; that is, these rates may be lower than the rates from or to intermediate points along the line.

Tariffs of all three kinds must be filed with the Board and published before they come into force. Standard tariffs require the expressiox sanction of the Board before they can be put in use. Special and competitive tariffs do not require this express sanction, but thirty days' advance notice must be given if the railway wishes to increase such tariffs and three days' notice if the railway purposes reducing them. The Board, however, has the power to disallow a tariff of any kind which it considers unreasonable or unjust. In such a case it is usual for the Board to require the railway to substitute a satisfactory tariff, but the Board itself may prescribe what it thinks are the proper ratesx if the railways do not. As a general rule, however, the railways are left free to work out the rate tariffs, but always subject to the Board's right of interference. If the Board were responsible for the originating of rate tariffs it would have to be many times larger than at present, and backed up by a large staff of clerks.

The Board has also the power to regulate the classification of freight. Classification problems are really rate problems, for the application of a shipper to have a certain kind of good placed in a lower class is really an application to lower the rate on that good.

The railways are not to be allowed to discriminate unjustly against persons or places. This is about the only general rule in the Act which the Board must follow in reaching its decisions.

Shippers who have complaints to make may make application to the Board, which will assign a date for a hearing. The procedure followed is fundamentally as in an ordinary court of law, but is generally somewhat informal. Lawyers may or may not represent the parties, but in rate cases the traffic representatives of the disputants usually present the cases. Rules of evidence are not followed as strictly as in ordinary courts. The Board is a court of record nevertheless, and possesses an official seal.

Any findings of the Board as to fact are final. In reaching its decisions it is not bound by previous judgements. On points of law, the opinion of the presiding commissioner -- that is, the Chief Commissioner, or in his absence the Assistance Chief Commissioner, or in the absence of both the Deputy Chief Commissioner -- is final so far as the Board is concerned. But if the legality of any order or judgement of the Board is questioned, the applicant may receive permission to appeal to the Supreme Court of Canada. Appeal also lies on points of both fact and law to the Governor-in-Council, who also reserves the right to overrule any judgement of the Board or order a new hearing. Down to 1918 the Board conducted about 6900 formal hearings. There were appeals in only 62 case, 15 to the Supreme Court on points of law, 24 to the Supreme Court complaining that the Board had exceeded its jurisdiction, and 23 to the Governor-in-Council. Of these 62 appeals only ten were allowed in whole or part. The Board, therefore, is practically supreme in its field.

In increasing the Board from three to six members in 1908, it was provided that the Board could split into two sections. But as two commissioners are enough to hold a sitting, it has been possible for the Board to split up into three sections so that hearings may be heard in three different parts of the country at the same time. It is only on very important questions that more than three commissioners sit, such cases being generally heard at Ottawa.

The Board of Railway Commissioners is a hard-working body, and has accomplished a very great deal that is beneficial. It has not proved a panacea for all our railway problems. It has found itself powerless to interfere with geographical influences in many cases and in others it has found it better not to interfere with the existing rate and industrial structure than to establish *prima facie* more equitable rates. The Commission has been hampered, also, by other things which might be easily removed. The Railway Act of 1888 had taken away the rights of the railways not to have their rates reduced ~~xx~~ as long as the dividends earned did not exceed fifteen per cent. But in the charter of the Canadian Pacific it was provided that the rates on that railway could be reduced if its dividends exceeded ten per cent. When the Railway Commission was established, therefore, this railway advanced the argument that it held a special contract and was not subject to the control of the Board so long as it did not pay dividends in excess of ten per cent. A test case came up in 1909, but the Canadian Pacific before the matter was settled acquiesced in the Board's control over rates. The question has never again been raised. But there is another thing which is actually hampering the Board to a very great degree, namely the Crow's Nest pass Agreement. This dates from 1897 and is in the form of an Act of Parliament. By it the Canadian Pacific in return for a subsidy to build its line through the Crow's Nest Pass agreed to reduce certain rates in the Prairie West by definite amounts.

It was generally agreed that this Act was special legislation which the Board could not overrule. As the rates actually in existence were less than the maxima as stated in the Agreement, no trouble arose until the increased costs of operation during the war made rate increases imperative. The West at once claimed that rates there could not be advanced beyond those of the Agreement. An Order-in-Council got over the difficulty by suspending the Agreement for the time being, but there was trouble as soon as it came back into force. The Board now attempted to overrule the Agreement, claiming that the Railway Act gave them a control over all the rates in the country. The Supreme Court has ~~new~~ decided against this view. The Board is now seemingly helpless to deal with the general rate problems. Rates in the West cannot rise above the level of the water rates. Rates on the Prairie cannot increase beyond the limits set forth in the Crow's Nest Pass Agreement. At the same time British Columbia is demanding big rate reductions, and asserting claims to "treaty rights" in the matter. So Parliament is trying to clear up the situation, while the Board of Railway Commissioners -- seemingly the one body with sufficient training and knowledge of the situation to handle it properly -- must look on with its hands tied.

Chapter III

THE PACIFIC RAILWAY AGREEMENT

In a memorandum addressed to the Hon. William Lyon McKenzie King, Premier of Canada, and dated at Victoria, March, 1922, the Hon. John Oliver, Premier of British Columbia, wrote as follows: ". . . . I am speaking on behalf of the people of this Province, and demand, as a matter of right, the removal of . . . . discriminatory rates. I put this matter before you as a matter of treaty right, a right under an agreement as between the Province of British Columbia and the Dominion of Canada."[1]

Accepting without examination for the moment the fact of the existence of discriminatory rates -- justifiable or otherwise,-- it will be seen that Mr. Oliver in no uncertain language raises a point of the very greatest importance.[2] Rates in conformity with a treaty will rarely be the rates which economic factors would establish. If Mr. Oliver's claim is well founded it is necessary to discover its nature before the workings of other factors are considered, since a treaty necessarily will take precedence.

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[1] Memorandum respecting the Claims of British Columbia for Equalization of Freight Rates based upon the Term of Union, page 1. (B. C. Sess. Pap. 1922).

[2] It is not intended to imply that this is the first time this claim has been put forward, for the point has been often raised. The above quotation is used because Mr. Oliver uses such clear and explicit language, and because it comes from one in authority.

Mr. Oliver is, of course, referring to the Terms of Union under which British Columbia entered Federation. In these Terms the Dominion agreed to build a railway from the East to a point on the Pacific Coast. This was the origin of the Canadian Pacific Railway, the pioneer railway in Western Canada. Nothing was said in the Terms about the tolls which were to be charged by the railway.

There is little need to enter very far into the history of this agreement between Canada and British Columbia. Suffice is to say, that the Imperial government was very anxious to see all the British Colonies in North America united; that Canada was very eager to acquire British Columbia; and that the people of British Columbia were very determined that their position be in some way improved. This last fact is often overlooked by many who advance the argument that British Columbia entered Federation, not in her own interests, but in the interests of Canada and the Empire, and was lured in by the offer of the railway. The history of the time does not reveal a British Columbia prosperous and content to carry on without a change. The colony was extremely isolated from the trade routes of the world. To get to Eastern America the easiest way was to travel to San Francisco and over the Union Pacific, which had been completed in 1869. The all water route lay around Cape Horn. There was little or no trading on the pacific. There were no markets for British Columbia lumber, for her fisheries' produce, or for her agricultural produce. The old gold rush days were over; the prospectors had gone away again after picking up what they could find. British Columbia's mineral wealth had hardly been touched, except for the coal-mining on Vancouver Island. MANUFACTURING WAS PRACTICALLY UNKNOWN IN THE COLONY. The mainland of British Columbia could not develop because there ~~was~~ WERE no easy means of communication either between settlements or with the coast. There were only about seven or eight thousand white people in the colony, and these resided chiefly on Vancouver Island. Moreover, the population was actually decreasing. The people were not wealthy and were discontented. Talk of annexation with the United States was very common, and it seems very probable that annexation would indeed have taken place despite the reluctance of the people to throw off their British connection, if the formation of the Dominion of Canada had not caused the people to look in that direction and see a ~~possibility~~ hope for the future ~~in that direction~~ there. There is no doubt but that the great majority of the people were very much in favor of the proposed union. The one class of persons ~~who were~~ which was strenuously opposed to it was the office-holding class which ~~were~~ well off and quite contented with things as they were. As the Executive Council was not responsible to the people, and as it appointed the majority of the members of the Legislative Council, this office-holding class exercised an influence quite out of proportion to its size.

The acquisition of the Hudson's Bay ~~territories~~ Company's territories and the appointment of the Earl of Musgrave, an enthusiast for union, as Governor of British Columbia removed all obstacles in the way of beginning negotiations. British Columbia drew up the terms under which she would agree to enter the Canadian Federation. Canada must build a wagon road at once to British Columbia, and commence the construction of a railway. ~~many~~ Some thought a railway was not necessary to the union. But the union could hardly have functioned properly without some good means of communication. There were enough members of the legislature who ~~saw~~ realized there could be but questionable advantages gained without a railway, to ~~make~~ insist upon this as a condition of entering upon union.

A delegation was appointed to take the British Columbia terms to Ottawa. It found Canada willing -- at least the Conservative government, for the Liberal opposition was very strenuously opposed -- ~~to~~ not only to building a railway as British Columbia required, but to agree to begin it within two years and finish it within ten. The wagon road idea was abandoned. British Columbia was to give up to the Dominion ~~thextexxitory~~ a strip of territory extending twenty miles on each side of the railway, as well as 3,500,000 acres which were to be selected. These land grants were to help finance the construction of the railway. These were the Terms of Union as finally agreed upon.

The railway did not get started within two years and was not finished within ten. The early attempts of a private company to get the charter to build the railway and receive the heavy subsidies, ended, by the government being forced out of office because of a bribery scandal. Mackenzie took office. He had strenuously opposed the agreement to build the railway, for he feared it would involve the country in financial ruin. Nevertheless, he was faced with the task of building the railway for no private company now came forward to do so. The surveys took much longer than expected, the beginning of construction was continually delayed, and British Columbia began to grow impatient. On several occasions this Province was nearly seceding. Arbitration accomplished nothing. Mackenzie hardly knew what to do, and continually urged British Columbia to be patient and not demand the doing of the impossible. Finally, ~~Mackenzie~~ the Mackenzie government was swept out of office.

The Macdonald government ~~could only~~ had no alternative but to continue the policy of building the railway. But suddenly it was announced that a private company, heavily subsidized, would receive a charter enabling it to complete, own, and operate the Pacific railway. Following this the Canadian Pacific Railway Company was incorporated on February 17, 1881. The Company was given ten years to finish the railway. It was actually completed by 1885 and was open for through traffic the following year. With the zealous pushing on of the railway building the discontent in British Columbia had diedzz down. To compensate the Province for the violation of the Terms of Union with respect to the time of finishing the railway, the Dominion ~~gave it it~~ CONSTRUCTED the ~~Nanaimo~~ Esquimault and Nanaimo Railway. This the Dominion had been under no obligation to do.

Such was the origin of the Terms of Union and the ~~the~~ way they were carried out. No mention was made in them of the rates to be charged on the railway. In fact, we do not find any mention of rates in any of the discussions of the time concerning the railway and the terms. There were many, it is true, who did not think the railway at all practical, and believed that even if it were built it could never be operated profitably. There were no "flourishing towns such as Omaha for the railway to pass through" in the Canadian

West. The matter hardly concerned British Columbia at all, as the financing of the railway was Canada's problem. If the railway could not be financed, then there would be no union.

If the Terms of Union said absolutely nothing about rates, on what grounds does Mr. Oliver base his claim for the ~~future~~ removal of rate discriminations by virtue of treaty right?

In the first place, Mr. Oliver emphasizes the point that the Terms of Union were drawn up and agreed to for the mutual benefit of both parties to it. These terms also admitted British Columbia to the Dominion of Canada, which according to the British North America Act was created to further the interests of all sections of the country. The Dominion became as much responsible for the development of its Western coast as its Eastern. In other words, British Columbia became a province of the Dominion of Canada and entitled to all the rights and privileges which the other provinces possessed.

All this is incontestable, though it is unfortunate that Mr. Oliver should think it necessary to fall back upon the wording of old documents to prove British Columbia's right to fair treatment. But how does this affect the rate situation? The Dominion can hardly guarantee equal rates to every part of the Dominion, unless it wishes to make up the losses to the railways. If the rate structure was built up arbitrarily without any regard to the economic factors which influence rates, the result would be very serious. The Dominion as a whole would certainly not be benefited, and the economic strength of the country would be very considerably weakened. Equal rates are, nevertheless, very desirable if at all possible, but it would be folly arbitrarily to establish them where the result could be only ruin to the railways and the creation of unfit industries.[1] The Dominion is not legally or morally bound to guarantee equal rates to all sections of the country, any more than it is bound to guarantee equal prosperity to all sections. Railways cannot possibly function -- except with heavy losses, which necessarily have to be borne by the government -- if economic laws are totally disregarded in rate-making. passenger fares can often be fairly well equalized, but this is rarely the case with freight rates. ~~Inxthexknx~~ It might be noted, that in the United States, which was created for the equal benefit of all the component states, the rates in the different sections of the country are widely different, but there has never been any attempt to equalize them on the grounds of constitutional rights. If, indeed, the railways adopted a policy of rates deliberately detrimental to British Columbia interests, this very legitimate

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[1]It is not attempted here to argue that equalization of rates in British Columbia is economically impossible. This will be discussed later. Here it is merely intended to establish the point that the Terms of Union can have no bearing on the matter.

grievance could very properly be attacked as violation of constitutional rights. This charge, it is true, is frequently implied in many discussions on the subject; but in the absence of any evidence that such is the case, it need not be taken seriously.

Mr. Oliver makes some other interesting points. He holds the Canadian Pacific Railway Company to be bound by the Dominion's agreement with British Columbia. In the Canadian Pacific's charter it is stated that the purpose of the railway is to promote Imperial and Canadian Union. And even if the railway is not bound by the Terms, it at least is subject to the Railway Act. The Railway Act of 1868[1] made discrimination illegal, and this provision remained in the Act of 1879[2] which was the one in force at the time the Canadian Pacific was incorporated. No exception can be taken to this reasoning. Whether or not the Canadian Pacific could be held legally bound by the Terms of Union is not of so very great importance. The Act incorporating the Canadian Pacific, however, if to be considered in the nature of a contract, is one between the Railway and the Dominion. British Columbia, therefore, could not properly sue the Railway Company for any alleged breach of contract.

That no mention of rates is found in the Terms of Union, Mr. Oliver argues, is clear proof that it was

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1 31 Vict. c.68, sec. 12, subsec. 6.
2 42 Vict. c. 9, sec. 17, subsec. 6.

never intended that rates in British Columbia should be higher than elsewhere. For if this had been intended would British Columbia ever have consented to enter into the agreement? This is not so certain. Looking up the debates as to the terms of the agreement,[1] we do not find the rate question discussed. It was evidently not considered as a possible source of trouble for the future. It would have been impossible, in any case, to determine what rates should be charged before the railway was even built, or even to lay down general principles. It is true, that if the Terms of Union had contained a clause stating that rates on the British Columbia section of the railway should be higher than elsewhere, a number of British Columbians would very probably have objected and refused to agree to such a clause. But on the other hand, even a railway charging high rates was ~~xx~~ better than none at all. The railway could certainly not ~~take away~~ interfere for the worse with the economic structure of the province. On the other hand, the railway meant all sorts of possibilities. Access to the interior would be ~~very~~ much easier, and the railway rates would have to be ridiculously high to be greater than the cost of wagon transport over imperfect roads. The truth seems to be that the importance of the rate question was not realized, and the problem of

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[1] The Government Gazette Extraordinary, British Columbia, March, 1870. "Debate on the Subject of Confederation with Canada."

financing the railway loomed up as such an important one that if the matter of rates had ever been brought up it would have been dismissed as of little importance. During the gloomy days of the '70s it was generally felt that British Columbia would be very fortunate if the railway was ever built at all. Discussion of what rates should be charged on a railway not yet built, and which might possibly never be built, at a time when there was practically no interference whatever with the rights of railway directors to put in force whatever rates they chose, would have been rather amazing.

According to the Terms of Union British Columbia gave up a strip of land along the railway line and extending twenty miles on each side of the line, together with 3,500,000 acres of land to be selected. British Columbia was the only province to surrender any land. The remainder of the land grant to the Canadian Pacific was made by the Dominion in the then North-west Territories. Later it was argued that the grant made by British Columbia had been altogether too large, and the Dominion consented to pay the province $100,000 per year in perpetuity as compensation.

The purpose of this land grant, says Mr. Oliver, was to balance the adverse physical conditions in British Columbia and to make up for any extra expenditure necessary in the mountains. Unfortunately it is not so certain that this was the case. The Pacific railway was regarded as a work primarily in the interests of British Columbia. It was British Columbia which would benefit most from the railway, according to the opinion of the time. Therefore, it was felt that British Columbia should make some contribution towards the railway. Making a grant of unsettled land was the method adopted because it ~~not~~ meant little immediate ~~mean much of a~~ sacrifice. The difficulties to be encountered in building through the mountains were only vaguely understood, though it was realized that it would require enormous sums to build the railway. There is nothing to indicate that the British Columbia land grant was to furnish funds to pay for the extra expenditure necessary in the mountain section. ~~It~~ The proceeds from the land granted were merely part of the total sum that would be required to build the whole railway. The point seems to be, that no matter which ~~ever~~ part of the country has actually been benefited most by the railway, when the railway was planned it was never doubted that it was chiefly going to benefit British Columbia.

I believe that the argument that higher rates are justified on account of higher costs of construction and of operation has little to support it. But let us suppose that this is a good and sufficient reason for the charging of higher rates. It will be seen that a subsidy given to offset these extra costs and so maintain rates on an equality could lead only to a very complicated and difficult situation. In the first place the British Columbia land grant could yield a sum equal to the amount the land could be sold for. Just how large this would be could not possibly have been calculated. The extra cost of construction in the mountain section could hardly have been estimated at all accurately when the Terms of Union were being drawn up. What the costs of operation would be could only be guessed at. How then could a subsidy, the size of which could not be even estimated, be expected to equalize costs of construction as yet not able to be calculated and the costs of operation in perpetuity of a railway not yet built? The two sides of the account could balance only by a most remarkable accident, and in all probability would be very far apart. Another difficulty is that the proceeds from the land sales would have to be ~~smeared over~~ applied to the costs of operation in the mountains as long as the railway continued existence. Equalization of rates on these grounds would mean very artificial rates and serious problems. Fortunately, however, British Columbia can attack the cost of construction and operation theory in a more convincing way.

There is one other way in which it is claimed that ~~the Canadian Pacific~~ British Columbia has been suffering because of broken obligations. This is having to pay higher rates because the Canadian Pacific built through the Kicking Horse Pass. The Yellowhead Pass route had been the one through which the government had intended to build the railway. It was generally understood that the Canadian Pacific Company would build through this pass, but there was no stipualtion in the charter to this effect. Then, of a sudden, the company decided to run their line through the Kicking Horse pass. The reason for this was the fear of the Company that if the line were built too far north there would be a danger of American railways extending into Canada and alienating this southern territory from the Canadian Pacific. The Yellowhead Pass route has a much better grade -- in fact, the easiest grade through the Rocky Mountains in either the United States or Canada -- than the Kicking Horse Pass route, though it is seventy-five miles longer. It is possible, however, to operate via the Yellowhead route a great deal cheaper. The "stupidity" of the Canadian pacific in building through the most difficult route to operate, has been held responsible for the necessity of higher rates in British Columbia. "Why should British Columbia be forced to pay for the Canadian pacific's mistake?" is the argument. There is another side to this, but if the Kicking Horse Pass route was a mistake, it was only a mistake. The Company had a perfect right to choose whichever route it liked and in doing so it violated no agreement or contract.

In 1909 the Attorney-General of British Columbia brought suit against the Canadian Pacific Railway Company to reduce freight and passenger tolls in British Columbia.[1]

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[1] 8 C. R. C. 346.

The whole case was based on the theory that a contract existed between British Columbia and Canada, which also bound the railway company, and that rate discriminations against British Columbia were breaches of this contract. The Provincial Legislature had passed a resolution to this effect, reciting the whole history of the Terms of Union, the surrender of public lands, the railway as the inducement for British Columbia to enter Federation, and so on. The decision was,, nevertheless, adverse to the province, the Board of Railway Commissioners declaring that it could find no evidence of the existence of a contract, either express or implied, which covered the matter.

If the above case is compared with the Equalization Case of 1922[1] it will be noticed to what an extent the British Columbia line of argument has shifted. No longer is the "higher cost" theory accepted as an unfortunate fact which exists but ought to be disregarded because it involves a breach of contract. Instead, the soundness of the theory itself is attacked and the plea of the existence of a treaty agreement is ~~allowed to slip to the background.~~ not so strongly stressed.

It would seem British Columbia is adopting a wiser policy. It has been seen that the Terms of Union make no direct reference to the subject in hand. That they has anything at all to do with rates can be maintained only by making a

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[1] 27 C. R. C. 153.

number of very questionable assumptions and attempts to interpret the motives of the parties to the agreement. Obviously such arguments can be of little value in a court of law. Such a body must take the wording of the Terms of Union as they stand, and will not be interested in the motives behind the making of these Terms. Not being legally sound, the contract theory necessarily becomes simply a moral argument. But if this is the case, why is it necessary to refer back to an agreement more than fifty years old? Surely if the claim is one for fair and just treatment, there is no need whatever to ~~fax~~ quote the Terms of Union to prove that the province is entitled to such fair and just treatment. All the provinces are entitled to such treatment whether they have entered into agreements with the Dominion or not.

Any attempt to use the Terms of Union to gain for British Columbia more than is her just due, is to be deplored. As applied to the rate question, it can only increase the artificiality of the rate structure, and make a solution to our rate problem very much harder to find. British Columbia must argue her rate cases without falling back on the Terms of Union.

Chapter IV

THE EARLY YEARS OF THE CANADIAN PACIFIC IN THE WEST

The final rail in the Canadian Pacific was laid November 7, 1885, and by June of the following year through trains were running from Montreal to Vancouver.

The problems connected with financing the construction of the railway had been serious enough and with less able men in charge the whole project might have failed. But now even greater difficulties presented themselves to the Directors of the young railway. How was the road be going to made to pay? There was little population in the vast territory through which the railway ran. The railway was completed midway between two census years, but in a decade in which the West grew rapidly. There were 62,260 people in Manitoba according to the Census of 1881, but there were 152,506 in 1891. The population of British Columbia was smaller, though it too was increasing rapidly. It grew from 49,459 persons in 1881 to 98,173 ten years later. The population of these two provinces was scanty enough, but even more serious was the great gap of uninhabited territory between them. At this time settlement practically ended at Portage la Prairie and did not begin again until Kamloops was reached. Between these two places it is said you could count the number of settlers living within twenty miles of the line on the fingers of one hand. Increased population promised to settle the question of traffic in the future, but in the meantime the traffic furnished was necessarily small.

Yet, the Canadian Pacific paid from the beginning. In the first place, it had received a large amount of help from the government. The Company had been given 25,000,000 acres of land in the North-west and $25,000,000 in cash. It was to be exempt from taxation -- provincial and municipal, as well as dominion. The land grant was not to be taxed for twenty years. The 713 miles of track which the government had previously built or had already contracted for were handed over to the railway free of charge. In addition, a monopoly clause was inserted in the railway's charter, by which the government sought to prevent the western traffic being tapped by American roads. For twenty years no railway was to be chartered in the West within fifteen miles of the International boundary. This clause was to prove the source ~~cause~~ of serious disputes.

But even with all this government assistance, the railway might very well have gone under in these early years. That it did not may be largely attributed to efficient management and the loyal staff which was built up.

It was necessary to provide traffic for the future, and at the same not overlook any possible sources of traffic for the present. To assure the former a vigorous immigration campaign was opened, and settlers were given all the aid and assistance possible. Industries along the line, as flour millss and coal mines, were encouraged and helped along by the railway for years. The company in the absence of better traffic would carry anything that would pay the extra costs of handling it. The company even found it worth its while to carry buffalo bones to Eastern factories when nothing better offered itself. Right from the start the railway took advantage of the scenic attractions along the route. The mountain scenery was widely advertised, and a large tourist traffic quickly came into existence.

Canadian traffic alone, however, could hardly be large enough to make operation very profitable. For this reason the company soon commenced tapping American traffic. It was the transcontinental traffic which the Canadian Pacific wished to share in, and to this end it began offering low[1] rates. It could carry traffic from the Eastern United States over its lines to Vancouver and thence down to San Francisco by a line of steamers which the railway owned. Traffic in the opposite direction was very small at this time. The American roads soon felt the effects of this competition and were forced to come to an agreement with the Canadian railway in 1887. As the Canadian Pacific was the least attractive route to American shippers because of

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[1] A railway going after traffic not naturally tributary to it and which it is not interested in developing, considers such traffic as ~~xxxxx~~ an extra source of income. Any rate, no matter how low, which will cover the extra cost of handling that particular traffic is profitable, because though it does not contribute its proper share towards the fixed charges and joint costs, it yet contributes something, which is better than nothing.

its long and roundabout haul, it was allowed a fixed differential -- expressed in cents per hundred pounds for each class -- under the American Rates. In 1892 the Canadian Pacific began charging rates which were ten per cent below the American rates. There were immediate protests. It was charged that the Canadian pacific was not now charging differential rates, but instead "cut" rates. Strained relations continued until 1898 when the matter came up for arbitration. It was decided that the Canadian Pacific was no longer entitled to any differential. By this time the Canadian pacific was no longer so dependant on American business and stopped cutting rates. This railway, nevertheless, has continued to carry a great deal of through American traffic, and remained a source of annoyance to the American roads. The situation is similar to the case of the Grand Trunk when it invaded Chicago in 1879, began cutting rates, and forced the American trunk lines to come to an agreement.

Unfortunately, in this early period[1] there was no lack of complaints with respect to rates. It was not from British Columbia that serious complaints came at this time. The railway had been a distinct gain to that province. Many tourists came to the Pacific coast. Vancouver had been established, and there was now a means of easy access to the rest of the country. Rates were undoubtedly high, but they worked no undue hardship as yet to British Columbia industry. The people of the province were for the most

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[1] Reference is made roughly to the period uo to the Crow's Nest Pass Agreement of 1897.

part content to take advantage of the railway for which they had waited so long, and made no very serious protests for some years to come.

But Manitoba was by no means satisfied. It complained of excessive rates and held up the Canadian Pacific's monopoly clause as the reason for them. Before the Canadian Pacific had been built it was possible for the people of Manitoba to communicate comparatively easily with the East by making use of the Red River to connect with the Great Northern and Northern pacific Railways. Both these railways came within a short distance of the border line, and were quite ready to enter the Canadian field. Manitoba believed that by bringing these railways into the province the Canadian Pacific would soon be forced to reduce its rates. The monopoly clause prevented the Dominion government, any of the territorial governments, or the governments of any provinces which might be thereafter created in the North-west, from chartering any rival railroad between the main line of the Canadian pacific and the boundary, or within fifteen miles of the boundary, and running in a southerly or southwesterly direction. It is clear that the Dominion had no authority to prevent any province from chartering a railway with purely ~~xix~~ provincial objects. The Dominion, however, possessed the right to disallow provincial statutes, and it made a free use of this power to void each of a series of acts passed by the Manitoba legislature to incorporate railways within the province. Finally, in 1888, the Canadian Pacific xxxx agreed to surrender their monopoly privilege in return for a bond guarantee. Manitoba at once brought a branch of the Northern Pacific into the province, and chartered some local roads. As a matter of fact the Canadian Pacific's control over Western Canada was never seriously threatened. Manitoba came gradually to see that it was not the Canadian Pacific's monopoly, but geographic conditions, which were responsible for the unsatisfactory rates. The hostility to the company continued, however, until the passing of the depression period of the early '90s. The fight over the monopoly clause had been bitter. Its supporters had defended it as absolutely necessary to enable the railway to get on its feet; that as Eastern Canada had paid large sums for the railway it was entitled to the Western traffic, which without the monopoly clause would go via American roads to United States' centres; and that in any case the rates on the Canadian Pacific were for the most part lower than the rates in the territory immediately south of the boundary. But Manitoba (and to a lesser degree the Northwest Territories) replied that the rates were nevertheless too high, and argued that if this were not so American competition would not need to be feared. The railway received all the blame for the prevailing depression and discontent, and was frequently accused of sacrificing the

the interests of the settlers in the West to the foreign shareholders of the company. The fight had been bitter. At one time ~~thxmax~~ the Cnadian Pacific had threatened to remove all its main offices and shops to Fort William from Winnipeg, at the same time making it clear how much Winnipeg would suffer thereby.

As The removal of the monopoly clause in 1888 did not quiet the discontent in the West the Dominion government finally appointed a Railway Rates Commission in 1894 to investigate the situation. The Commission reported the following year. The conclusionsit~~xxx~~ reached are summed up in the following extract from the report: "In view of the fact that the Canadian pacific Railway Company holds about 18,000,000 acres of unsold land and own upwards of three thousand miles of railway in the province of Manitoba it is obvious that their interests must be identical with those of their patrons and it occurs to your Commissioners that selfish motives alone would be ample and sufficient safeguards on the action of the Company in regualting its general policy. Any policy other than that favourable to the settlers would be simply suicidal and ruinous to the Company. . . . In conclusion your Commissioners desire to express the opinion that many of the complaints have arisen from a misunderstanding of the tariffs."[1] Such a report could not be at all satisfactory to the West, and the complaints continued as before. The request of the Canadian Pacific

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[1] Report of the Railway Rates Commission, Sess. Pap. No. 39, 1895, p. 15.

for a subsidy to build an extension into the Crow's Nest Pass region, gave the Dominion government an opportunity to assume some control over Western rates. In return for the subsidy the railway agreed to several reductions in the rates on goods coming into the West from the East as well as on grain and flour moving eastward. The government also reserved the right to approve the tolls on all the company's lines south of the main line in British Columbia, or reserve them to any Railway Commission should one be established in the future. The establishment of the Board of Railway Commissioners in 1903, following the two McLean reports, further curtailed the Canadian Pacific's freedom in Western rate matters. But the Commission could not be a panacea for all evils, and it found Western rates controlled to a very large degree by ~~xxx~~ geographic and economic conditions and not so much by arbitrary will.

The complaints made by the West had been in part over similar grievances which the East also complained of, but its most serious protests were concerned with conditions peculiar to the West. Rates into the North-west were high, local rates were ~~xxx~~ quite out of proportion to through rates, the distributive rate structure was not satisfactory to the growing towns west of Winnipeg, and the transcontinental rate structure hurt interior British Columbia points.

Speaking of the high rates into the North-west, Mr. McLean in his report says:"The lighter traffic to the North-west precludes the acceptance of the same rate basis as in the more settled portions of Canada. The long rail haul necessary to place goods in the west makes the freight charge play a very important part in the determination of the price. On shipments of furniture to the North-west the freight charges amount on the average to one-third of the original cost of the goods. In the case of the construction of flour mills in the west, one-third of the cost of the completed mill is represented by freight charges. The freight charge on soap from Toronto to Edmonton -- 4th class at \$2.07 -- is \$1.65 for an 80-pound box. The selling price is \$3.65 per box. The freight therefore amounts to 44 per cent of the value of the goods. . . . As has been stated it cannot be expected that the rates in the West will, for some time, be on identically the same basis as those in the East. But some comparisons of rates throw light on the nature of the charges. For example the 4th class rate from Toronto to Kamloops, a distance of 2,770 miles, is \$2.01, from Toronto to Halifax, a distance of 1,170 miles, the rate is 54¢. That is while the distance to Kamloops is a little less than 2½ times as great, the rate is 3½ times as great. In view of the fact that the railway has the advantage of the long haul throughout, the disproportion would appear to be too great. The rates into the North-west as they at present exist, interfere with the expansion of the trade of Eastern Canada in the North-west."[1]

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[1] 1902 Sess. Pap. No. 20a, p. 67-8.

Local rates in the West were high in proportion to through rates, and in fact still are. "It is claimed that local rates are excessive on grain. It is impossible to bring a carload of oats on local rates from Portage la Prairie to Winnipeg."[1] Comparisons of local rates in the West with local rates in Eastern Canada and in the United States show the former to be much higher, but such comparisons are hardly fair. The West was much more thinly settled, and rates had necessarily to be high.

The distributive rate problem involved the struggle of places west of Winnipeg to gain the business from that city, which at the start had had a monopoly. The whole question of distributive rates might best be considered later.

The transcontinental rate problem was somewhat similar to that of the United States. There was a certain amount of competition for the railway at the Pacific coast because of the fact that it was possible to ship there by water via Cape Horn or the Isthmus of Panama route. This necessitated comparatively low transcontinental rates to the coast, so that rates to interior British Columbia points where there was no competition were much higher. Kamloops was the chief source of complaint, maintaining that rates to that place ought to be at least no higher than to the Pacific coast which was so much farther on. In the opinion of Mr. McLean the contention of Kamloops could not be sustained as conditions at Kamloops compared with, say,

[1] 1902 Sess. Pap. No. 20a. p. 46.

Vancouver were so entirely different. But Kamloops, he thought, ought not to be charged the full amount of the local rate from Vancouver to Kamloops in excess of the rate to Vancouver. The transcontinental rate structure is very complicated and full of difficulties, and since the building of the Panama Canal has become even more so. It is therefore best to reserve a more complete examination of this problem until later on.

We have seen that there were unsatisfactory rates in the West almost as soon as there were any railway rates at all. The Canadian Pacific's monopoly was generally attacked as the source of all the trouble. That this was a mistaken view is apparently shown by the fact that the removal of the monopoly and the advent of other ~~xxkx~~ great railways did not by any means settle the difficulties. The Western rate problems of to-day are largely the same as those of the '80s and '90s of the past century, and in considering them it is best to remember that conditions over which the railways have no control are more responsible for ~~xxxxxxxxxxxxxx~~ the present state of affairs than the deliberate acts of the railways themselves.

Chapter V

RATE STRUCTURE IN THE WEST DOWN TO 1914

When the equalization of rates in different parts of the country is spoken of, the reference is usually to standard rates. A standard tariff, it will be remembered, is one in which rates are quoted on a mileage ~~pix~~ basis without reference to particular places of the direction of the movement. The country is divided into a number of standard tariff territories, and for each of these territories there is but one tariff. At present there are five such territories in Canada. Each standard tariff specifies the maximum toll which may be charged for each class of goods for different mileages. A separate rate is not quoted for each number of miles, but rather the mileages are expressed in groups which are wider for the longer distances than the short ones. For example, rates for each of the ten classes may be quoted for each mile up to five miles in a certain standard tariff; then, up to 100 miles the rates may be quoted in five mile groups; from 100 to 500 miles the rates may advance in ten mile steps; from 500 to 1,500 miles in twenty-five mile jumps; and over 1,500 miles and up to the maximum mileage possible within the territory in fifty mile groups.[1]

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[1] The above is the method in the Prairie Standard Tariff adopted in 1914, and also the Pacific Standard Tariff. The latter is limited to 750 miles.

The rates in standard tariffs are the highest which which may be charged. These rates apply only when there is no appropriate rate covering the movement in any special or competitive tariff. The latter are not a certain amount below standard rates. A special rate may be slightly less than a standard rate in a particular section, or it may be very much less. With respect to actual movement only from five to ten per cent of the total volume of traffic goes under standard rates. Any regular movement or one of some importance (as the rates on sugar from a particular refinery to its usual markets) is sure to be covered by some special or competitive rate.[1]

If such is the case why is so much attention paid to the problem of equalizing standard tariff rates? There are two principal reasons. In the first place, standard tariffs are the only ones sufficiently simple to be

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[1] The terms "standard" "special," and "competitive" apply, strictly speaking, to a tariff which contains one or many rates. Each tariff is numbered and classed as one of the three kinds, and filed with the Board of Railway Commissioners. ~~The difference in the kinds~~ The requirements with respect to standard tariffs differ from those in connection with special and competitive ones.

More often rates are spoken of as being either class or commodity. Each of from 1,000 to 1,500 different kinds of goods are placed in ~~from~~ one of ten classes. It would be more correct to say that each good is placed in several classes according to the manner in which it is packed and also the size of the shipment. In determining the rate for any particular good, it is necessary to first determine which class the good falls in, and then find the rate for that class. But only about 15% of the total tonnage moves on class rates. The rest moves on comparable for different sections of the country. There is only one standard tariff for each territory, while there are numberless other tariffs which may apply. Each of these standard tariffs is general and is not confined to particular places and particular commodities. Comparisons of the rates on a certain commodity for similar distances in different territories are most often misleading, for in all probability the commodity will not occupy a position of the same relative importance in one region as in an another. For example, a comparison of flour rates on the Prairie with those in the Maritime Provinces could not be of much value. The fact that standard tariffs contain class rates only gives comparisons some meaning; for first class goods moving in one section of the country, though they may be different from the first

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commodity rates. A commodity rate is a rate applying to a particular kind of good, and not to a particular class. Such things as grains, lumber, wood-pulp, coal, ores, brick, stone, sugar, potatoes, etc. -- in general, any good with a low value in proportion to weight, which moves in bulk and could not stand class rates -- take commodity rates.

The rates in standard tariffs are always class rates. Most of the rates in special and competitive tariffs are commodity rates, but some are class rates.

The distinction between car-load (C. L.) and less-than-car-load (L. C. L.) rates is primarily one of classification. For various reasons a railway can handle car-load lots more cheaply than small lots, so that in the case with most goods if a shipper is sending as much as a certain minimum weight the shipment is given a rating in a lower class than it would otherwise. The rate charged is therefore lower. The problems of classification are really rate problems, for the classification determined the rate. All commodity rates are for car-load lots only.

class goods moving in another section, are nevertheless probably of about the same relative importance. Rate comparisons between widely different areas are hard enough to make if they are to have any meaning, but to try and compare the general rate levels of the various sections by examining the mass of special and competitive tariffs would be quite impossible. There is no way of averaging such rates. Between two places the rate on some commodity may be fairly low, while between two other places an equal distance apart the rate might be much higher. Which is typical? There is no way of finding out.

The second reason why standard rates are of so much importance is that the difference in such rates in two different territories is generally reflected in special and competitive rates. If a railway company claims higher standard rates are necessary in British Columbia than on the Prairie because of geographical disadvantages, very probably special and competitive rates as a whole will be somewhat higher for the same reason. With particular commodities this is not often the case, as the rates on some may be much higher in proportion than the standard rates while on others they may be very much lower. But as it may be assumed that there is some theoretical rate (though we cannot determine it) which is a proper average of the rates in a section of the country, it may be concluded that ~~that~~ any two such average rates in two different territories ~~xxxx~~ are in approximately the same ratio to each other as the respective standard rates.

In comparing the general rate levels in different parts of the country, therefore, standard rates are commonly used, and, indeed, when they are not the comparisons are usually of little value.

With reference to the equalization of the general rate levels there are two principle problems to consider: the equalization of rates in British Columbia and on the Prairie, and of Western rates and Eastern rates. Unlike the United States, there is only one classification in force throughout Canada.[1] This would seem to make standard rate comparisons fairly simple. There is one big difficulty, however. When the Canadian Pacific began operation in Western Canada it adopted what was known as the Joint Northern Classification, which was the one in force in the corresponding territory in the United States. With this classification first class rates are generally double fourth class rates, the other classes being graded in proportion. When, later, the Canadian Classification was adopted, the same general relationship between the rates of the different classes was maintained. But in

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[1] There is one slight exception to this. The White Pass and Yukon Railway (which runs for a few miles through British Columbia) uses what is known as the Northern Classification, consisting of only three classes.

Eastern Canada class rates have always been built up by making the first class rate double the fifth class rate instead of the fourth class. The rates in the East and those in the West have thus always been out of line with each other, and a simple comparison is accordingly difficult to make. There is a further difficulty, because the rules respecting the mixing privilege differ in the two parts of the country. The standard rates in British Columbia may be more readily compared with those on the Prairie.

The western rates Case inquiry (1910-1914) was the first time the rate structure in Canada as a whole was taken up. Before this the rate problems in the East and in the West had been treated separately as though they were separate units. Down to 1914, therefore, attention will be confined to the relationship between British Columbia and Prairie rates.

The Canadian Pacific adopted its first standard tariff on May 1, 1881. It was similar to that in force in the adjoining United States territory, and applied to the mileage then in operation which was all in Manitoba.

The rapid expansion of the system made new tariffs constantly necessary. By 1894 a standard tariff known as Number 270 was in force in the West. This may be taken as our starting place.

Standard Tariff No. 270 applied to the whole of the West, that is, from Port Arthur to the Pacific Coast. This whole region was taken as one territory but British Columbia, nevertheless, for the most part paid higher rates. This was brought about by assuming mileage in the mountain territory. In the movement over the portion of the line from Canmore, Alberta, to Revelstoke, British Columbia, each actual mile was counted as two for the purposes of determining standard rates. From Revelstoke as far as Yale each mile counted as a mile and a half. From Yale to Vancouver there was the water competition along the Fraser River to be faced, so that in this portion of the line the actual mileage was used. In only a small part of British Columbia, therefore, were standard rates really the same as on the Prairie. When the Crow's Nest extension was made each mile counted as two in working out standard rates. The railway claimed the higher rates in British Columbia were due to high operating costs.

From the adoption of this tariff in 1894 to the decision in the Western Rates Case in 1914 there were three important changes in the Western rate structure. These were brought about by the Crow's Nest Pass Agreement of 1897, the Manitoba-Canadian Northern Agreement of 1901, and the Board of Railway Commissioners' order in the Regina Board of Trade Case given in 1912.

The discovery of coal and other minerals in the Crow's Nest Pass region prompted the Canadian Pacific to plan a branch line into that section. The company sought a subsidy of the government to build this line, and the latter saw an opportunity to acquire some control over railway's rates in the West and put an end to the many complaints. The Company and the government readily reached an agreement which was embodied in an act of parliament of 1897[1] and commonly known as the Crow's Nest Pass Agreement. Under this Agreement the Canadian Pacific was given a subsidy of $11,000 per mile to build a railway line from Lethbridge, Alberta, to Nelson, British Columbia, and to pass through the town of Macleod.[2] The subsidy in the aggregate was not to exceed $3,630,000. It actually amounted to only $3,404,720. In return for this subsidy the Canadian Pacific consented to three things in connection with its rates:

1. As soon as the line to Kootenay Lake was open for traffic the rates and tolls on the Company's lines, or the lines of any other railway which the railway should then or thereafter own, lease, or operate, south of the Company's main line in British Columbia as well as

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[1] 60 & 61 Vict. C. 5.
[2] It was the government which insisted that the railway pass through Macleod.

the rates and tolls between any points on such lines and points on the main line, must be submitted to the Governor-in-Council and approved by him before becoming effective. This ~~xxxxx~~ control might be transferred to any railway commission which might be created in the future. This stipulation is of interest in connection with the subject of rate control, but did not affect the rate structure.

2. The Company was to reduce its general rates and tolls on a number of commodities from Fort William and points east of there to all points west of there. Ontario fruit men had for many years complained that fruit from Washington State was entering the North-west at lower rates than from Eastern Canada, and that Canadian fruit was gradually being prevented from entering the West. The Canadian Pacific was now forced to reduce the rates on all green and fresh fruits into the West from east of Fort William by 33 1/3%. This was the largest reduction. Coal oil was reduced 20% and the rest of the commodities 10%. The latter included cordage and binder twine, agricultural implements, iron, wire, window glass, paper for building and roofing purposes, paints and oils, live-stock, wooden ware, and furniture. It will be noticed that the list includes generally such articles as the settlers needed and for which they relied upon the

East to supply. But not only were these reductions to be made at the time, but the Act further stipulated that "no higher rates than such reduced rates or tolls shall be hereafter charged by the Company upon any such merchandise carried by the Company between the points aforesaid; such restrictions to take ~~place~~ effect on or before the first day of January, 1898."[1] It is this provision binding the railway for all time to come which is the source of the present controversy over the agreement.

3. The Crow's Nest Pass Agreement Act also provided that the rates then in force on grain and flour from all points west of Fort William to Fort William and Port Arthur and all points east of there, were to be reduced by three cents per hundred pounds. This greatly helped the settlers in the marketing of their produce.

The Crow's Nest Pass Agreement was of the utmost importance to the West, and later was to affect the East though not so favourably. The reduction of all the more important rates in the West was of considerable gain to the settlers there. As the succeeding years saw further reductions in Western rates, the maxima fixed by the Agreement were of little significance. But when rates began to rise again during the Great war the

[1] See Subsec. (d) of Sec. 1 of the Act.

railways[1] found the fixed x maxima troublesome factors in the rate situation.

The Crow's Nest Pass Agreement was adverse to British Columbia interests, though it was not so very harmful at the time. The reductions did not apply to British Columbia so that, as they covered the greater part of the Prairie traffic, the disproportion in the rate levels in the two sections was increased. British Columbia began to suffer from the effects of the Agreement later, when she commenced seeking markets on the Prairie and found eastern interests with a firm grip on that territory.

Four years later another government agreement with a railway was to alter the whole rate structure in the West. This agreement was between the province of Manitoba and the Canadian Northern Railway, and also stipulated rate reductions in return for financial assistance to the railway. The agreement is found in a Manitoba Statute[2] of 1901. Certain lines of the Northern Pacific Railway and its subsidiaries in Manitoba had been leased to the province for nine hundred and ninety-nine years. The lease also included the rolling-stock and equipment in connection with these lines. By the terms of the agreement with the Canadian Northern, this property was assigned to

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[1]The few other short railway lines in the West were forced, of course, to also follow the terms of the agreement.

[2] 1 Edw. VII c. 39. Known as the Bond Guarantees Act.

that railway, and Manitoba also undertook to assist the company in acquiring the property outright. The Canadian Northern was to be responsible for the rental payments. The company was also to have its line to Port Arthur open for traffic by October, 1901, and was to issue bonds on this line. These bonds the provincial government was to guarantee.

In return for this assistance the railway surrendered to the Lieutenant-Governor-in-Council the right to determine the freight rates on all the company's lines between Manitoba points and Port Arthur (and in the opposite direction) until June 30, 1930. The company was to be allowed to state its case before the rates were fixed. Passenger fares were to be reduced to not more than three cents a mile within Manitoba. Provisions were also made for provincial audits of the railway's accounts, that the railway's shops remain in Winnipeg, and that in the year 1929 the government have the option of purchasing the whole system.

This agreement is, of course, not now in force, but it was important at the time because it brought about a fifteen per cent reduction in rates in Manitoba. The Canadian Northern at that time was comparatively unimportant, and the Canadian Pacific might have taken steps to have the Act disallowed. Instead, the latter railway chose to lower its rates to the Canadian Northern level. Rates in its Manitoba Division[1] were reduced the fifteen per cent. The Canadian Pacific, also, of its own accord lowered the rates in what are now Saskatchewan and Alberta by seven and one-half per cent. There were no reductions in British Columbia. This second reduction was quite voluntary on the railway's part, for at this time it was the only railway operating in this part of the West. Later, when the Canadian Northern extended westward from Manitoba it adopted the Canadian Pacific rates. The reductions applied to all rates, including the standard rates. The result of the Bond Guarantees Act was that the unity of the Prairie rate structure was broken, and that Prairie rates were reduced without any reduction at all in British Columbia. The discrimination against British Columbia was being increased.

In 1910 British Columbia passed an Act[2] to incorporate the Canadian Northern Pacific Railway -- a part of the Canadian Northern system. This Act was somewhat similar to that of Manitoba in 1901. The province was to give the railway $40,000,000 and in return reserved the right to modify the rates on the railway to and from British Columbia points and from and to points elsewhere in Canada. Appeals would be allowed to the Supreme Court of Canada.

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[2] Stat. of B. C. (1910) cap. 3.

[1] The Railway Divisions do not correspond to the provinces of the same name.

The McBride government in getting the Act passed through the legislature hoped by bringing in the Canadian Northern to the province, that the resulting competition would cause a general lowering of rates on the Canadian Pacific in British Columbia. But the Act was not allowed to stand, the Dominion government disallowing it on the grounds that the Canadian Northern Pacific was for the general benefit of Canada, and so British Columbia failed in its attempt to place this railway outside the jurisdiction of the Board of Railway Commissioners.

If the Manitoba agreement was allowed to stand, why was not the British Columbia one? The answer is, probably, that the Canadian Pacific in the former case was perfectly willing and ready to make reductions and the actual agreement served only as the occasion to do so. In the case of British Columbia, the Act was distinctly hostile to both the Canadian Pacific and the Board of Railway Commissioners. Under the circumstances the Dominion seems to have done the proper thing in disallowing the Act. The Manitoba Act would also likely have been disallowed if in actual practice it had worked contrary to Dominion interests. It will be remembered that the Board of Railway Commissioners had not yet been created in 1901, and any sort of rate control was more of a distinct advantage to the country as a whole than otherwise.

The Manitoba-Canadian Northern Agreement had divided the Prairie country into two standard rate territories. There were now five distinct standard tariffs in the West, and this continued to be the case until 1914. These five tariffs and territories were as follows:[1]-

(1) The Manitoba Scale. This was in force in the province of Manitoba with the exception of the Le Pas line of the Canadian Northern, and also included New Ontario as far east as Port Arthur. The standard tariff in force in this territory was based on Tariff No. 270 of 1894 less the fifteen per cent reduction brought about by the Manitoba Bond Guarantees Act of 1901.

(2) The Saskatchewan Scale. This covered the Le Pas branch in Manitoba, the whole of the province of Saskatchewan, and all of the province of Alberta with the exception of the Canadian Pacific main line west of Canmore and the Grand Trunk Pacific's main line west of Thornton. (The mountainous country begins west of these places). The standard tariff in force in this region was lower than the old Tariff No. 270 by seven and one-half per cent, the reduction taking place at the same time the tariff was reduced in Manitoba.

(3) The Mountain Scale. This was in force generally on the Canadian Pacific's lines in British Columbia, the territory beginning in the east at Canmore, Alberta, and

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[1] See Western Rates Case, 17 C. R. C. 123.

at Crow's Nest. It also applied to the following subsidiaries of the Great Northern Railway (now incorporated with that compnay): the Crow's Nest Southern; the Bedlington and Kelson; the Red Mountain; the Nelson and Fort Sheppard; and the Vancouver, Victoria and Eastern on the portion of its line east of Kilgard. The standard tariff in force on these Lines was also based on No. 270 of 1894. The old practice of assuming mileage had been abandoned; and had been replaced by a tariff which was confined to the Mountain territory alone, and which contained rates higher than in No. 270. For distances up to 220 miles the rates in the tariff were double those to be found in tariff No. 270; for distances over 220 miles and up to 750 miles (the limit) the rates were graduated on a lower and lower basis, though not in accordance with any fixed principle. Thus for 750 miles the first class rate instead of being double the rate to be found in Tariff No. 270, was only 46 2/3 % higher. There had been no reduction corresponding to the reduction on the Prairie following the Manitoba Act. It will be noticed that this was quite a different arrangement for British Columbia, and generally meant higher rates than before. Using the assumed mileage method the Canmore-Revelstoke section was the only part of the line (aside from the Crow's Nest line) ~~xxxxx~~ on which rates double those of Tariff No. 270 were charged. The distance between these two places is only 195 miles, but under the Mountain standard tariff all distances up to 220 miles were subject to rates double Tariff No. 270. The Canmore-Revelstoke section was, therefore, no better off than before, while the rest of the lines in British Columbia were under higher standard rates than before. At the same time standard rates on the Prairie were lower.

(4) The Lake Scale. This covered two different sections. It applied, firstly, to the Canadian Pacific steamers on Arrow, Kootenay, Slocan, Trout, and Okanagan Lakes. These steamers serve to connect rail points and are properly to be considered as part of the railway system. They do not act as competitors to the railway. The Lake scale was also in force on the Great Northern subsidiaries in the Fraser valley district, viz., the New Westminster Southern, and the Vancouver, Victoria and Eastern west of Kilgard, and on the British Columbia Electric Railway Company's interurban lines. The tariff in force was virtually the old tariff No. 270 of 1894. As the Prairie tariffs had been reduced following the Manitoba Act, the Lake

Scale, while the lowest in force in British Columbia, was not so low as the Prairie rates.

(5) The Lake-and-rail and Inter-lake Scale. This applied to the short rail hauls between the Kootenay Lakes, and between the steamer landings and rail stations of the Canadian pacific in the West Kootenay and Boundary district. The rates were somewhat below those in the Mountain scale, but considerably higher than in the Lake scale.

If we assume that the rate for a certain distance in tariff No. 270 is 100, the changes in standard rates may be summarized roughly as follows:

	1894	1914
Manitoba	100	85
Saskatchewan-Alberta	100	92½
C. P. R. Canmore-Revelstoke	(200)[1]	200-[2]
C. P. R. Revelstoke-Yale	(150)[1]	200-[2]
C. P. R. Yale-Vancouver	100	200-[2]
Lake Scale Territory	...	100

So far as standard rates reflect general rate levels, the above will give an indication of the extent of the discrimination against British Columbia during this period. It should be noted, though, that

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[1]The fact that each mile counted as two miles or a mile and a half would not mean that the rate for double or one and a half times the distance would be that ~~much~~ many times greater. This could be the case only if the tariff had been made on a basis of so much per mile.

[2]Up to 220 miles only, of course. For 750 miles would be just 146 2/3.

the reductions in connection with the Crow's Nest Pass Agreement did not affect the standard rates. Yet these reductions were of great importance for they affected the bulk of the traffic moving on the Prairie. As British Columbia was not benefited by these reductions, the discrimination was in reality very much greater than shown by the standard rates.

The third great change in Western rates during this period was brought about by the Board's Order in the Regina Board of Trade Case in 1912. This case, however, was not concerned with standard rates or the general rate levels at all, but dealt with the distributive rate problem. Up to this time rates from Fort William or Port Arthur to Winnipeg and the rates out of Winnipeg to Prairie points had together been less than the rates from the head of the Lakes direct to places on the Prairie. The result was that Winnipeg was the distributing centre for the whole of the Prairie country, shipments going there to be broken up into small lots and then sent on to the various points throughout the West. The Board of Trade of Regina led the attack on this system, and claimed that Regina should receive the same opportunity to become a big distributing centre as Winnipeg. The argument was that Regina was more suitable as a distributing centre for Saskatchewan than Winnipeg, and that it should be allowed to become the distributing centre for the territory naturally tributary to it. The ~~Board~~ Railway Board gave a decision favourable to Regina's claim, and ordered a reduction on fourth class rates into Regina the other classes to be reduced accordingly. This decision was of importance not only to Regina but to other Prairie centres such as Saskatoon, Edmonton, and Calgary. This case caused a change in the whole plan of distribution in the West, and though it did not change the general rate level, it was of the utmost importance to the larger centres west of Winnipeg which could act as distributing points.

British Columbia did not accept the rate situation during this period without making serious protests, but as nothing of importance was gained the rate structure was not affected. In 1909 the government of the province complained to the Railway Board of the high rates in force in British Columbia, and asked the Board for a general reduction in tolls both freight and passenger.[1] As the case was largely argued, by the province, on the grounds that the reduction should be made because of contractual rights -- little stress being placed on the actual need for a reduction --

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[1] Attorney-general for B. C. v the C. P. Ry. Co., 8 C. R. C. 346.

and as the Board could find no evidence to show that any contract existed, the case was dismissed.

In 1908 Vancouver complained to the Board that the city was being discriminated against as a distributing centre.[1] It was shown that Winnipeg in many cases could actually make shipments to interior British Columbia points with lower freight charges than Vancouver could. The latter city thought it ought to be allowed to distribute at least as far eastward as Calgary and Macleod. Against this contention, the Canadian Pacific argued that the rate-basing point for the West was not Winnipeg but Fort William and Port Arthur. The rates from Winnipeg westward were but the balance of the through rates, by which all the West was governed. These rates were controlled by the competition of the American railroads and the ocean competition at Vancouver. Rates westward had to be low, and it would be impossible to lower rates in the other direction. So far as the Prairie went, the heavy traffic -- the grain traffic -- moved eastward and it was necessary to put in low rates in the opposite direction to encourage traffic and balance the movement. The railway also pointed out the difficulties encountered in ~~xxx~~ operation in the mountains, and the

[1] Vancouver Interior Rates Case, 7 C. R. C. 125.

general scarcity of population and traffic in British Columbia. As things then existed one-third of the cars going westward into Vancouver were empty, and if traffic were encouraged any more in the opposite direction, it would simply result in disaster to the railway. And even if Winnipeg did lose the business, the Canadian Pacific declared, it would be impossible for Vancouver to retain it. United States' railways would soon grab it all. Winnipeg, in defending itself as a distributing centre, claimed that, while Vancouver was certainly nearer to Calgary than Winnipeg so far as actual mileage went, the heavy expenses which had to be met in the mountains resulted in it being cheaper to operate between Winnipeg and Calgary than between Vancouver and Calgary. Winnipeg, therefore, was really the natural distributing centre and not Vancouver. Also the trend of freight was eastward and it was necessary to balance this as far as possible. The rates from Vancouver eastward were local and non-competitive, and these local rates were actually lower than corresponding rates in the United States. The rates from Winnipeg westward were competitive and part of a larger rate structure. In the interests of the railway it was better for it to have the long haul from Winnipeg than the short one from Vancouver as the railway got nothing from the water haul to that city. Winnipeg also claimed that the Vancouver demands were supported only by the traders and jobbers of that city and not by the people at large. Vancouver replied that where the goods for distribution originally came from did not matter. The question was whether or not the Winnipeg-Calgary rate was too low. If Vancouver has the natural advantage as the distributing centre, the Board had no right to allow Winnipeg artificially low rates to equalize advantages. If Winnipeg could not compete without assistance, it should simply surrender the business. The Commissioners were divided in their opinions, but the majority verdict was against Vancouver. The Board seemed to feel that to alter existing conditions would result in chaos and would probably lead to disastrous results. But it granted relief to Vancouver for the commodities menumerated in the Crow's Nest Pass Agreement, as it felt that this was a case of Winnipeg gaining an artificial advantage. This did not in reality help Vancouver to any great extent as most of the articles named came from the East. The minority judgement criticized the general rate structure, and thought that British Columbia had not been dealt with fairly in not receiving rate reductions similar to those gained by the Prairie after the Manitoba

Agreement. It recommended that standard rates in British Columbia should be fixed at one and a half times those on the Prairie. The decision had gone against Vancouver; but the matter was afterwards given further consideration the Board this time ordering the railway to raise the rates from Winnipeg so as to keep the jobbers of that city out of the Kootenay country. Winnipeg at once protested but their case was dismissed.[1] The result was that Vancouver got a strong hold in British Columbia territory, though not beyond the mountains. In the distribution of a number of commodities Vancouver did not compete with Winnipeg, so that that city remained in control of the field to this extent.

Down to the Western Rates Case of 1910-14, the relationship between Eastern and Western Rates had scarcely received any official attention. So far we have examined only the internal rate structure in the West, and have noted the relationship between rates in British Columbia and on the Prairie. For the period from 1914 to the present day, we shall note the tendency of rates in British Columbia to become equal to those on the Prairie, and also the tendency of Eastern and Western rates to become more equal.

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[1] Winnipeg Jobbers Assoc. v C. P. Ry. Co., 8 C. R. C. 173.

Chapter VI

THE WESTERN RATES CASE

The Canadian Pacific's policy of charging different rates in different parts of the country had been the cause of increasing dissatisfaction. Besides the special complaints of British Columbia, Western Canada was beginning to question more and more the necessity of charging unequal rates as between the East and the West. As a result of this discontent, the Dominion government in 1910 ordered the Railway Board to make a general inquiry into the whole situation. This became known as the Western Rates Case.[1] The hearings lasted four years, Chief Commissioner Sir Henry Drayton delivering the judgement of the Board on April 6, 1914. This case is one of the most important in the history of Canadian transportation. For the first time a thorough examination of the rate structure in Canada as a whole was made, and the difficulties in the situation were brought out in their full significance.

The specific complaints made against the railways[2] were as follows:

(1) The rates on the Prairies were higher than in

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[1] See 17 C. R. C. 123; the Annual Reports of the Board of Railway Commissioners; and The Record of Proceedings, Western Rates Case.

[2] Often the Canadian Pacific is spoken of as being the only railway against which complaints were made in the West. It is often this railway alone which is attacked. The other two transcontinentals were too weak financially to attempt to interfere with the rate structure as set up by the Canadian Pacific. That railway set the rates for the West, and the others followed.

Ontario and Quebec.

(2) The Canadian Pacific was discriminating:

(a) In the tolls from Vancouver to Prairie points, as against tolls from Eastern Canada to the same places.

(b) In the tolls on wheat and oats from Alberta to the Pacific Coast, as against the tolls from that province to Lake Superior.

(c) In passenger tolls in British Columbia as against the rest of Canada.

It will be seen that the case dealt with the very same problems which are being discussed at the present time.

The Board found that it was undoubtedly true that Western rates were very much higher than those in the East, and also that the Canadian Pacific's earnings in the West were greater than in the East. It was shown that the Canadian Pacific on invading the East had adopted the rates already in existence there on the other railways, and apparently the Canadian Pacific never affected Eastern rates at all. In the International Rates Case of 1907 (which investigated the general rate structure in the East) it had been shown that rates in Eastern Canada were determined very largely by the competition of the water-carriers on the Great Lakes and of the United States' railways. As stated in the judgement, "There can be no doubt at all as to the efficiency of the waterways spread through Eastern Canada, from its easterly coast and terminating with the western limit of the most westerly division of the East -- Port Arthur and Fort William."[1] The water competition might be potential as well as actual. Nor did the closed season to navigation permit the railways to raise their rates. If they did so very little traffic would move during the winter, and the movement during the summer months would be heavy with great quantities of goods held in storage. The water competition was effective everywhere throughout the East, even places not actually on the water routes not being beyond their influence. And as Eastern Canada was so closely connected with the United States in a railway sense, the rates had to be kept on the same level. If rates in Canada were too high, Canadian exports would go by American ports, and none of the large American traffic from the Middle West would cross through south-western Ontario. In short, rates in Eastern Canada were rather too low to be profitable to the railways, but nevertheless they were dictated by factors over

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[1] p. 159.

which the railways had no control. Rates in Eastern Canada could not be raised any higher because it would simply mean that the railways would lose the business. It followed, therefore, that if equality was to be brought about it could only be done by lowering Western rates to the Eastern level. This, said the railways, was quite impossible. It could mean only the bankruptcy of the railways. Western Canada was the only section of the country where the railways were free to determine the rates themselves, and as the Western rates were the only variables in the whole rate structure they had to be adjusted with respect to existing Eastern rates, so that the railway systems as a whole could successfully operate. This was the key ~~xxxx~~ to the whole problem. Moreover, asked the railways, how did low Eastern rates hurt Western Canada? Suppose equality to be brought about by raising Eastern rates. Eastern Canada would suffer, the railways would suffer, and the West would not be the least bit better off. In fact, conditions there would be much worse, for the West derived considerable benefit from low Eastern rates -- in the case of grain, for example. The West was generally held to be taking a dog in the manger attitude, and trying to prevent the East from enjoying what it was impossible to have in the West. The conclusion reached by the Railway Board was that while equality of rates was desirable and ought to be brought about as soon as practicable, for the time being it would be impossible to equalize the rates. Equalization would be disastrous to the railways and would probably hurt Canadian industry as a whole. The Board in turning down the West's application for equal rates, at the same time strongly emphasized the general desirability of equalized rates. ~~Thix~~ To bring Western and Eastern as near equality as possible must be Canada's policy in the future. Hope was held out that the present conditions would not be permanent, and that the growth of the West would make lower rates possible there.

But if the Board did not lower the rates of the West as a whole, it did alter the internal rate structure within that part of the country. It declared that climatic and operating conditions in Saskatchewan and Alberta were substantially the same as in Manitoba, and that it was unreasonable to charge higher rates in the former two provinces. The Board had previously recognized this fact in the Regina Board of Trade Case. Now it ordered that a new standard tariff, to be known as the Prairie Standard Tariff, was to replace the old

Saskatchewan and Manitoba tariffs. The new Prairie tariff was to be similar to the old Manitoba tariff, with the exception that it was necessary to include larger mileages -- that is, the Prairie tariff covered distances up to 2,100 miles, while the old Manitoba tariff had extended over only 1,500 miles. The Board also ordered that this tariff have an initial five mile group instead of ten as before. The Prairie tariff was to extend from Port Arthur on the east, to the commencement of the mountains on the west, viz., Canmore and Crow's Nest on the Canadian Pacific, Tollerton on the Canadian Northern, and Thornton on the Grand Trunk Pacific. Henceforth, the whole of the Prairie West enjoyed the same rates and there were no discriminations against different sections of the Prairie.

British Columbia benefited greatly as a result of the Western Rates Case, though getting by no means all it asked for. In connection with the British Columbia situation, the railways pointed out the heavy costs of operation through the mountains and maintained that higher rates were necessary to meet these excessive costs. British Columbia did not attempt to deny that it was more expensive to operate within that province, but thought that the higher operating costs should be borne by the country as a whole and not by the province alone. The Board's finding was that as places which enjoyed geographical advantages received more favourable rates, sections of the country labouring under geographical disadvantages could not be relieved from unfavourable rates. The geographical disadvantages must apply as well as the advantages. The cities on the Pacific Coast, as Vancouver, gained considerably in the way of lower rates because of water competition. If advantages and disadvantages were equalized by a total disregard for geography, these coast cities would suffer greatly. Nevertheless, while holding out to British Columbia no hope of equality, the Board thought that the discrimination against that province was more than was necessary. To better the situation the railways were ordered to discard the three old standard tariffs in force within the British Columbia, and to replace these with two new ones to be known as the Pacific Standard Tariff and the British Columbia Lakes standard Tariff. The latter was to apply to water transport only, and not then if a rail haul should intervene. This tariff was in force on the Arrow, Slocan, Kootenay, Trout and Okanagan Lakes, and on the Columbia River. Later, in September, 1916, Trout Lake was dropped from the list because of the stopping of service on that lake. These rates do not include marine insurance, and it might be noted that heavy and bulky articles moving under standard tariffs are accepted only under special contract. The British Columbia Lakes Standard Tariff is on the same basis as the Prairie Standard Tariff, but covers only 150 miles.

The new Pacific Standard Tariff was distinctly better than the old Mountain Tariff, but was also built up on the theory that its rates should be higher than Prairie rates because of higher costs of construction and operation. The Prairie Standard was, however, to be the basis for the construction of the Pacific tariff. In the Pacific tariff the rates were to be simply the same as those on the Prairie for a distance fifty per cent greater. This did not mean that British Columbia rates were fifty per cent higher than Prairie rates, but simply meant that the rate for a distance, say, of a 100 miles in British Columbia was equal to the rate for 150 miles on the Prairie. As rates for longer distances were always less per mile than for shorter distances, the 150 mile rate on the Prairie was something less than fifty per cent greater than the 100 mile rate.

So far as the passenger tolls went, the Board did not think any action was desirable. It was shown that the Standard Passenger fare east of Calgary was 3¢ per mile and west of that city, 4¢ per mile. Before 1901 the fare had been 5¢ per mile (maximum, of course). The statistics available were unsatisfactory, but they seemed to indicate that per mile of line it cost about 22% more to operate in British Columbia than in the country as a whole, and about 30% more than to operate on the Prairie. Calculated on the expenses per train mile British Columbia showed expenditures higher by 54% and 47% respectively. Maintenance of Way and Structures in British Columbia came to about twice the amount that it did on the prairie. Maintenance of Equipment was only slightly higher, but Transportation Expenses were about 30% higher. In view of these things the Board thought no reduction in fares was warranted. So far as the Lakes District fares were concerned, the Board found travel there so light that the service was carried on at a loss rather than gain. On Okanagan Lake in 1913 the Canadian Pacific earned a revenue of $1,468,741, but the expenses totalled $1,667,171. Taking this fact into consideration, the Board thought no reduction justified even in this district. Reductions in the tolls on the inland lakes of British Columbia are in themselves not of so very much importance, because of the fact that the movement over these lakes is to a large extent only a part of a longer movement.

The reduction of grain rates from Alberta to the Pacific Coast did not receive very much attention. At that time the Panama Canal had not yet been opened, and Vancouver was not regarded seriously as a possible grain exporting city. With regard to the movement from Vancouver to the Prairie, the Board continued to take much the same attitude as in the Vancouver Interior Rates Case. The high costs of mountain operation more than offset the advantage to Vancouver of being closer to the Alberta market than Winnipeg and Eastern Canada. And taking into consideration all the elements entering into the situation the Board saw no reason for radically altering the rate structure in this respect.

In connection with the Western Rates Case there was an interesting attempt to work out an entirely new rate structure based on the average (as opposed to specific) cost of service. This scheme was worked out by Mr. Müller, a Chicago railway man. The whole plan was a most complicated one, and its adoption might have resulted in somewhat chaotic conditions. It would have been a very interesting experiment in cost-of-service rate theories, but would have been an expensive undertaking. The Board rejected the cost of service basis as impossible in the determination of rates. But was not a theory of this sort at the bottom of the rates in British Columbia?

Chapter VII

THE RATE STRUCTURE DURING THE GREAT WAR.

The Western Rates Case had held out to the West no hope of rate equalization in the near future. At best there was a promise given that the Railway Board would do its best to improve the situation at every possible opportunity. But it seemed as if the West would have to wait a long time -- until it had a population sufficiently large to furnish a volume of traffic that would make rate reduction profitable to the railways.

Four months after Sir Henry Drayton had handed down the judgement the Great War began. This was to entirely alter the whole situation. Two transcontinental railways were completely bankrupted, and generally distressing transportation problems were created. The war also greatly affected the rate situation. Prices and wages were rising rapidly, and to meet these higher costs of operation it was necessary to raise the tolls if the railways were to be enabled to carry on. ~~As~~ We thus find rates throughout the whole country being increased from time to time. But Eastern rates were raised to a greater extent than western, so that in this manner the spread in rates was lessened.

The railways made their first application for a general rate increase in 1916 following the general losses incurred during 1915, -- one of the worst years the railways had ever experienced. The hearing before the Railway Board which followed is known as the Eastern Rates Case.[1] As implied by the name, the rate increases were made only in Eastern Canada. The Board went fully into the earnings and accounts of the railways, and decided that it was necessary to grant a rate increase. Each rate was examined separately, and increases of different amounts were allowed. The increase came to be spoken of as a five per cent one, but there is no apparent reason for referring to it in this way., There was no general five per cent increase, and it would be difficult to show that that amount represented either the average or the typical increase. Besides examining the railways' accounts for the purpose of determining whether increased rates were justified or not, the Board also looked into the general question of the rate levels East and West once more. The conclusions reached were much the same as before, the judgement stating: "I am aware that an absolute parity is impracticable, but as conditions become similar reasonable parity ought to be obtained."[2] In the present instance the Board did not think that Western rates ought to be increased. The Eastern Rates Case was thus a distinct gain to Western Canada so far as equalization was concerned. Eastern rates had been raised a certain amount, while Western

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[1] 22 C. R. C. 4 [2] VI J. O. R. R. 154.

rates remained stationary.

The following year (1917) the Railway Board heard another application for a general increase in railway tolls. The increase granted by the decision in the Eastern Rates Case had not been sufficiently large, and the railways now asked for a general increase of fifteen per cent on all the freight rates and passenger fares throughout the country. They wished increased rates in Western Canada as well as in the East. This case is known as the Fifteen Per Cent Case.[1] The case naturally involved another inquiry into the general rate structure of the country. It also brought up the problem of the old Crow's Nest Pass Agreement. It was soon seen that an increase of fifteen per cent in the rates in Western Canada would mean a violation of this Agreement. The following are the maximum rates possible under the Agreement on some typical commodities, together with the actual rates in 1916, and with the proposed fifteen per cent increase:-[2]

APPLES (from Eastern Canada)

To	Under Agreement	Actual Rate	15% Increase
Winnipeg	55	53	61
Regina	83	83	95½

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[1] 22 C. R. C. 49. [2] ibid p.58-9.

Rates on Apples (Continued)

To	Under Agreement	Actual Rate	15% Increase
Medicine Hat	97	96	110½
Lethbridge	100	100	115
Edmonton	123½	104	119½
Macleod	114½	104	119½

<u>BARRELLED COAL OIL</u> (from Fort William)

To	Under Agreement	Actual Rate	15% Increase
Winnipeg	45½	33	39
Brandon	53	49	56
Regina	71	65	75
Swift Current	79	76	87½
Medicine Hat	88	84	96½
Calgary	96	95	109½
Lethbridge	92	90	103½
Saskatonn	93	74	85
Edmonton	120	95	109½

<u>AGRICULTURAL IMPLEMENTS</u> (from Toronto)

To	Under Agreement	Actual Rate	15% Increase
Winnipeg	68½	63	72½
Brandon	80	73	84
Regina	97	87	100
Swift Current	106½	96	110½

Rates on Agricultural Implements (continued)

To	Under Agreement	Actual Rate	15% Increase
Calgary	125½	116	133½
Lethbridge	121	110	126½
Saskatoon	116½	95	109½
Edmonton	148	116	133½

It will be noticed that only in the cases of the rates to Saskatoon and Edmonton would fifteen per cent increases be possible without violating the Agreement. These two places are not on the main line of the Canadian Pacific, and at the time the Agreement was made suffered greatly through being charged much higher rates than the corresponding points on the main line (Regina and Calgary). The per cent reductions brought about by the Agreement, consequently left these places with much higher maximum rates. Later, as the northern Prairie region developed and the Canadian Northern and Grand Trunk Pacific both ran their main lines through Saskatoon and Edmonton, reductions in the rates to these places followed. While it would be possible to raise the rates to these places without violating the Agreement, the Board very properly considered that this would be a case of very unjust discrimination.

As it was certain that a fifteen per cent increase in the rates on any of the commodities designated in the Crow's Nest Pass Agreement would be impossible without violating the terms of that Agreement, the question came up of whether or not the Railway Board had any authority to override the Agreement. Section 3 of the Railway Act expressly stated that wherever the provisions of any special act conflicted with the Railway Act, the former must override the latter. The Crow's Nest Pass Agreement undoubtedly was to be classed as a special act, and so the Board must be bound by its provisions. But the Agreement could not be held binding on any line of the Canadian Pacific not in existence in 1897, nor could it bind either the Canadian Northern or the Grand Trunk Pacific at all. Nevertheless, the Board felt that the Agreement must be held to cover the whole of the Prairie West and rates kept within the maxima provided, even though it was legally possible to raise the rates to many places.

But the Board did not feel itself bound by the terms of the Canadian Northern-Manitoba Agreement. A provincial act could not be termed a special act in the same sense as the Crow's Nest Act, and could not be held to limit the powers of the Board in any way. The Canadian Northern Railway, though its component parts were provincial corporations, nevertheless was a Dominion railway as it was for the general advantage of Canada. The Board of Railway Commissioners had, therefore, full control (within the limits of the Railway Act) over this railway, and no agreement with a provincial government could lessen that control.

Handicaped by the Crow's Nest Pass Agreement, the Railway Board was unable to grant a general increase of fifteen per cent, although it felt that such was desirable. The fifteen per cent increase was allowed in Eastern Canada, and a similar amount on the Prairies but subject, of course, to the Crow's Nest Pass Agreement. This meant that the rate increases in the latter territory averaged about ten per cent. The spread in rates between Eastern and Western Canada was therefore lessened about another five per cent. In view of the fact that British Columbia already paid higher rates than the rest of the country and was not protected by the Crow's Nest Agreement, the Board, continuing its policy of ~~not increasing~~ promoting equalization in rates as far as possible, increased the Pacific Tariff by only ten per cent. As the Prairie Standard Tariff had been increased fifteen per cent, British Columbia made a definite gain, though the average rate increases on the Prairie of all kinds of tariffs were no greater than in British Columbia. The British Columbia

Lakes Tariff was increased by fifteen per cent, thus remaining the same as the Prairie Tariff. Increases were allowed in passenger fares everywhere but in British Columbia -- another distinct gain for that province.

Grain and lumber rates received special treatment. The former comprised about half the total tonnage moving on the Prairie, and while a fifteen per cent increase was possible in most cases without violating the Crow's Nest Pass Agreement, the Board thought it would be unwise to raise the rates on this commodity ~~under the existing~~ to ~~war~~ that extent because of the existing war-time conditions. Consequently a maximum increase of two cents per hundred pounds was all that was permitted.

The rate structure on lumber from British Columbia was somewhat complicated. In the case of this commodity the spread between the different rates is of much more importance than the absolute amount of the rates themselves. A straight percentage increase of all lumber rates would accentuate this spread and would be undesirable. At the same time a general flat rate increase would hurt the short hauls. An increase of 3¢ on a rate of 46¢ is an increase of only 6½%, while on a rate of 5¢ it is a 60% increase. The whole problem was a highly technical one, and to preserve the existing relationship between the various mills it was necessary to examine each rate separately and work out a graduated scale of increases. A Mr. Hardwell submitted a report[1] tto the Board on the subject, and this was adopted. To points in Alberta and on the Canadian Pacific as far east as Mortlach, Saskatchewan, an increase of three cents per hundred pounds was granted; to other Saskatchewan points, an increase of four cents; and to Manitoba and Ontario points as far east as Port Arthur, an increase of five cents. To a great many places this meant an increase of fifteen per cent, but to a number of others it meant an increase of either more or less than that amount. To Winnipeg it meant ~~[illegible]~~ rates from the interior of British Columbia of 38¢ instead of 33¢, or an increase of 15%; but from the Pacific coast points the rates were increased from 40 to 45¢, or 12½%. To Eastern Canada, the differential on the rate to that area over the Port Arthur rate was increased ten per cent. This meant a rate of 67¢ to Toronto from interior mills instead of 60¢, and 74¢ from Pacific coast mills in place of 67¢. The rates to Montreal are similar.

The Fifteen per Cent Case had increased nearly all the rates in the country. Yet the railways found their incomes insufficient. The Canadian Pacific surplus was growing smaller each year, while the Canadian Northern and the Grand Trunk Pacific had found it impossible to carry on any longer and were now being operated by the government. It was estimated that the rates would have to be increased by approximately twenty-five per cent if the railways were to meet the rapidly increasing costs of operation. At the same time the United States government had taken over the operation of allthe railways in that country, and had granted large increases in the wages of the railway employees -- putting in force the so-called McAdoo wage scale. ~~Because~~ of the inter-locking of the railway unions in Canada and the United States, increased wages in the United States automatically made higher wages necessary here. These were granted in July, 1918. Increased rates were now absolutely necessary, but this was impossible if the Crow's Nest Pass Agreement was to continue in full force. To meet the situation the Dominion government, under the authority of the War Measures Act, revised the Railway Act in 1919 and provided that the Crow's Nest Pass Act be suspended for three years, that is, to July 6, 1922.[1] But previous to the suspension of the Crow's Nest Pass Agreement, the railways had been granted a twenty-five per cent rate increase. This is known as the Twenty-five Per Cent Case, but the increase was not granted by the Board of Railway Commissioners but by Order-in-Council of the government.[2] This Order removed the increases

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[1] Sec. 325, sub-sec. 5. [2] Order P. C. 1863, (1918).

granted in the Fifteen Per Cent Case, except where similar increases had been made in contiguous United States territory (that is, the East), and then granted increases of approximately twenty-five per cent all over the country. In other words, rates were raised in Eastern Canada by twenty-five per cent over the rates as they stood following the Fifteen Per Cent Case, or roughly forty per cent over what they were previous to the increases granted under that case. But in the West, on the other hand, the average ten per cent increase which had been granted in 1917 was removed, and then an increase of twenty-five per cent allowed; or a total increase of only twenty-five per cent was made. Since the outbreak of the war, Eastern rates had been increased about forty-five per cent, while Western rates had been increased only twenty-five per cent. This, of course, brought the rates in the two sections much nearer to an equality. The Order-in-Council providing the twenty-five per cent increase was to remain in force for the duration of the war and until further orders were given. The Board of Railway Commissioners was to report monthly on the effect of the new rates.

At this point it will be convenient to stop and compare the various standard raiffs with each other. The following are the standard tariff rates for 100-mile distances (1) prior to the Fifteen Per Cent Case, (2) under the Fifteen Per Cent Case, and (3) following the Twenty-five per cent increase:-[1]

I. Standard rates for 100-mile distances prior to the fifteen per cent increase of 1917.

Class	1	2	3	4	5	6	7	8	9	10
Eastern "A"	36	32	27	23	18	16	13	14	13	11
Eastern "B"	48	40	32	24	19	17	13	12	13	11
Prairie	46	38	31	23	21	18	14	15	17	12
B. C. Lakes	46	38	31	23	21	18	14	15	17	12
Pacific	60	50	49	30	26	21	16	18	21	14

II. Standard rates for 100-mile distances under the increases of the Fifteen Per Cent Case, 1917-18.

Class	1	2	3	4	5	6	7	8	9	10
Eastern "A"	41½	37	31	26½	20½	18½	15	16	15	12½
Eastern "B"	55	46	37	27½	22	19½	15	14	15	12½
Prairie	53	43½	35½	26½	24	20½	16	17½	19½	14
B. C. Lakes	53	43½	35½	26½	24	20½	16	17½	19½	14
Pacific	66	55	44	33	28½	23	17½	20	23	15½

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[1]East of Port Arthur there were two standard rate territories, viz., Eastern "A" and Eastern "B". The former originally included all Canada as far west as North Bay as well as all southern Ontario. Later this territory was moved West so as to include Sudbury, which was the way itstood at this time.~~andxxlxxxxkxxxx~~ Eastern "B" is the traffic "bridge" north of Lake Superior and is unimportant.

III. Standard rates for 100-mile distances following the twenty-five per cent increase of 1918.

Class	1	2	3	4	5	6	7	8	9	10
Eastern "A"	52	46½	39	33	25½	23	19	20	19	15½
Eastern "B"	69	57½	46½	34½	27½	24½	19	17½	19	15½
Prairie	57½	47½	39	29	26½	22½	17½	19	21½	15
B. C. Lakes	57½	47½	39	29	26½	22½	17½	19	21½	15
Pacific	75	62½	50	37½	32½	26½	20	22½	26½	17½

These comparisons will serve to show to what extent the cause of equalization was furthered by the rate increases due to the war. Eastern "B" territory is but the traffic "bridge" north of Lake Superior, which originates but little traffic, and may consequently be left out of our comparisons. The British Columbia Lakes tariff covers a comparatively small territory, and is moreover exactly the same as the Prairie tariff for the distances which it covers. Eastern "A" represents practically all the settled portions of Eastern Canada, the Prairie tariff covers the Prairie country, and the Pacific tariff is used for practically all British Columbia.

It will be noticed that following the twenty-five per cent increase, only in the first class rates were the Prairie rates very much higher than Eastern rates. The Prairie first class rate was 57½¢ and the Eastern "A" rate 52¢, a difference of 5½¢, or the former was only about 10½% higher. In eight of the other nine classes the greatest difference was just 2½¢, this being the ninth class which includes only cattle. But in the fourth class we actually find the Prairie rate 4¢ lower. Before the fifteen per cent increase it will be seen that the spread in first class rates was 10¢, or a difference of 18%. Only in the fourth class were Prairie rates as low as Eastern "A" rates. Apparently then the war had brought about practical equality between Eastern and Western rates. The figures taken alone, however, are apt to be somewhat misleading. Of all these rates the first class are the most important, for they include the best grade goods and those which are least likely to move on commodity rates. And it is in the first class that the greatest spread in rates remained. Also, it must be remembered that these are only standard rates, and for comparisons between the East and the West they do not so accurately reflect the general levels of rates as they do for comparisons between the Prairie and British Columbia. Lastly, the average Western haul is much longer than in the East. Rates for equal distances may be the same, but the Western shipper generally pays for longer hauls and is therefore more concerned with the rates for these hauls. Nevertheless, it must be admitted that so far as standard rates go the two rate levels are not decidedly different.

The differences between the Prairie and Pacific rates are a great deal more pronounced. In this case too, the standard differences more accurately reflect the real differences; for British Columbia rates were made higher than Prairie rates because of alleged higher costs of operation, and special and competitive rates were also made higher for exactly the same reason. As between Eastern and Western Canada the rate differences were due principally to water competition. This competition is felt almost entirely in the case of low-grade commodities only. The better class goods naturally travel by rail because of the speedier and better service which the railways can give Thus it is possible to have an equality between Eastern and Western class rates, though the rates as a whole are unequal. But commodity rates in British Columbia are made higher than Prairie rates for the same reasons that class rates are.

For the whole ten classes Pacific standard rates were higher. In the first class rates for a 100 miles there was a difference of 17½¢ or about 30½%, second class rates differed by 15¢ or 31½%, third class by 11¢, fourth class by 8½¢, and so on. Evidently British Columbia had a much greater cause to complain, for though the situation had been greatly improved the differences in the two sets of rates were too marked to be satisfactory.

Chapter VIII

THE RATE STRUCTURE SINCE THE GREAT WAR

The conclusion of the war did not put an end to increasing costs, and in 1920 we find the railways asking for still greater increases. These the Railway Board granted.[1] Eastern rates were increased by about forty per cent, Western rates by thirty-five per cent, passenger fares both East and West by twenty per cent, sleeping car tolls by fifty per cent, and excess baggage charges by twenty per cent. Commenting on the general rate situation as between the East and the West, the judgement contained the following:- "It is also well to bear in mind that the factors which first led to the establishment of these differing rates, namely water competition and that offered by the railway lines of the Eastern United States, have been for some years in an abnormal and unsettled condition and that their future influence on the rates in Eastern Canada is an entirely unknowable and unguessable quantity. . . . . It should not be forgotten, however, that the disparity in favor of the East, for reasons well known and fully understood,

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[1] 26 C. R. C. 303. This judgement was appealed to the Privy Council, but this body returned a decision supporting the Railway Board.

has long been recognized as an established, and until very recently, accepted condition."

The 1920 increases had favoured the West, but they did not remain in full force for very long. On January 1, 1921, Western rates were reduced to thirty per cent over what they had been prior to the 1920 increases, Eastern rates were similarly reduced from forty per cent to thirty-five per cent, and the passenger fares from twenty to ten per cent. On July 1 of the same year, the passenger fares were put back to the same level at which they had been before the 1920 increase. On December 1 both Western and Eastern freights were ~~again~~ reduced ~~five~~ ten per cent, remaining at twenty and twenty-five per cent respectively above their pre-1920 level.

In 1922 the three year suspension of the Crow's Nest Pass Agreement was to come to an end. Before it had time to do so however, a parliamentary committee had been formed to examine the matter. This body reported that operating expenses were still excessively high, and that it would be unwise to allow the Agreement to come back in force for another year at least with the exception of the clauses respecting grain and flour rates. The Agreement therefore was declared to be suspended for one year more, and the Governor-in-Council was to have the authority to keep it suspended for still one year beyond that if it were thought advisable to do so.[1] As a matter of fact, the Agreement did not come back into force until 1924.

In the meantime the Board of Railway Commissioners had held another general inquiry into the whole rate situation. This was known as the Equalization of Rates Case (1922),[2] and brought together representatives of the railways and of all sections of the country. The case involved many different matters, but chiefly had to do with the demands of the Prairies for equalization between the East and the West and of British Columbia for the entire removal of all the discriminations against that province. The position of the Prairies was that equalization had been promised the West as soon as it was possible to establish it, and that it was now possible to do so for water competition in the East was no longer effective. The Board found water competition to be still in existence, however, but reductions of various amounts were allowed generally throughout the whole country. The rates on lumber, coal, ores, and a number of other basic commodities were reduced by seven and a half

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[1] 12-13 Geo. V c. 41. (1922)

[2] 28 C. R. C. 153. Also see Recordof Proceedings, Equalization of Rates Case, Ottawa, 1922.

per cent. Taken together with the restoration of the Crow's Nest Pass rates on grain and flour, these reductions meant a great deal to both the Prairies and British Columbia.

But perhaps the most interesting featurex of this case was the determined fight put up by British Columbia for the removal of the Pacific scale of rates entirely. Beginning about 1920 the British Columbia government began to take a more active interest in the rate situation. At that time the Prairie provinces were hostile to the British Columbia claims, but at present Alberta has been won over to the support of British Columbia and Saskatchewan is rather uncertain what attitude to take. In the 1922 case Premier Oliver of British Columbia laid a verbal complaint before the Board to the effect that the present rate structure was in violation of certain arrangements and agreements between British Columbia and the Dominion government. The reply to this argument was that the Board had on two previous occasions[1] been unable to discover any such binding agreement, and that in any event the Dominion government had the sole right to charge the Canadian pacific Railway with breaking a contract. But British Columbia brought forward much

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[1] 7 C. R. C. 135 (B. C. coast cities complaint) and 8 C. R. C. 346 (At.-Gen. B. C. v C. P. Ry. Co.)

stronger arguments for equalization. It was contended that operation through the mountains was not so expensive as the Board had been led to believe; That if it were more expensive to operate in the mountains than on the Prairie or in Eastern Canada the statistics which the Canadian Pacific supplied did not prove it; that there were many things to lead to the conclusion that operation in the East was actually more expensive than in British Columbia; that the Canadian National Railways had a line running through the mountains whose grades were equally as good as on the Prairie itself; that the costs of construction of such things as the Connaught Tunnel ought not to be borne by British Columbia alone; and in any event would the Canadian Pacific lead the Board to suppose that it based its rates on a cost theory? The Canadian Pacific's reply was that the present rate structure was established by long usage; that higher rates in British Columbia than on the Prairie were necessary unless the Company was to operate at a loss through the mountains; that the Canadian Pacific could not be expected to offer rates which the Canadian Northern with its alleged superior operating conditions might be able to put in force; that any undue reduction might ruin the Company, which would be decidedly opposed to the interests of British Columbia as well as the country as a whole; that the rates on all the important commodities moving in British Columbia (about eighty-five per cent of the total) were quite low, and did not discriminate against British Columbia; that the rates on many commodities both into and out of Vancouver were much lower than corresponding rates into and out of Seattle and the American coast cities; that the Canadian Pacific's rates were not monopoly rates since there was competition; and that "the Company submits that a great part of the case of the Attorney-General of British Columbia is rested upon the alleged removal or alteration of the admitted and established disadvantages of this Company in operating its line of railway in British Columbia, as compared with its lines in the Prairie Provinces, by reason of improvements effected by the Company in its roadbed upon the British Columbia District;" the improvements, such as tunnels, were costly and had to be paid for out of income. The decision of the Board was that rates in British Columbia ought to be considerably reduced, but that it would not be advisable to grant absolute equalization at that time. Accordingly, the railways were ordered to prepare a new Pacific standard tariff whose rates for each distance were to be equivalent to the rates in the Prairie tariff for distances one and a quarter times as far. For distances over 750 miles (the limit of Pacific territory) there were to be 25-mile groups ~~similar~~, the rates for each group to increase to the same extent that similar mileage groups in the Prairie scale increased. The Pacific tariff must include distances over 750 miles because it is the tariff which applies on inter-territory movements.

British Columbia had gained a great deal. It received full benefit from the 7½% reduction on basic commodities in common with the rest of Canada. It also benefited from the return to the Crow's Nest grain and flour rates, as well as being given lower domestic grain rates. British Columbia standard rates were now only 25% above the Prairie rates, whereas before they had been 50% higher. And lastly, commodity rates in the province had been reduced proportionately to the class rates. But British Columbia was not satisfied with these gains. The province ~~was not~~ wanted complete equalization, and promptly appealed the decision to the Privy Council. The latter referred the matter back to the Board of Railway Commissioners, which saw fit to allow only a ten per cent reduction on grain rates within British Columbia. The Board has not seen fit to act further in the matter as yet.

The 1922 reductions brought the rates in British Columbia and on the Prairie much nearer to a parity. The following are some samples of the differences between the Prairie and Pacific standard rates (1) before the 1922 reductions and (2) as at present:[1]

I. standard Rates prior to 1922 reduction.

(a) 50 miles	1 ..	3 ..	5 ..	7 ..	9
Pacific	62	52	42½	32½	29½
Prairie	49	41	32½	24½	23
Differences	13	11	10	8	6½
(b) 100 miles					
pacific	97½	81	65	49	42½
Prairie	75	62½	50½	37½	34½
Differences	22½	19	14½	11½	8
(c) 300 miles					
Pacific	184	153	123½	93	83
Prairie	141½	117	94½	70	63
Differences	42½	36	27	23	20

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1 Taken from B. C. Sess. Pap. M 1 (1922).

Standard Rates prior to 1922 reduction
(Continued)

(d) 500 miles	1	3	5	7	9
Pacific	265	221	177½	133½	117
Prairie	198½	164½	132	99½	89½
Differences	66½	56½	45½	34	27½

(e) 700 miles					
Pacific	327	271½	216½	162½	146½
Prairie	249	208	166	125½	112½
Differences	78	63½	50½	37	34

II. Standard rates after the 1922 reduction.

(a) 50 miles	1	3	5	7	9
Pacific	53	44	35	27	24
Prairie	45	38	30	23	21
Differences	8	6	5	4	3

(b) 100 miles					
pacific	81	68	54	39	36
Prairie	69	57	47	35	32
Differences	12	11	7	4	4

(c) 300 miles					
pacific	152	126	102	77	69
Prairie	131	108	87	65	59
Differences	21	18	15	12	10

Standard Rates following 1922 reduction (continued)

		1	3	5	7	9
(d)	500 miles	1	3	5	7	9
	Pacific	219	183	145	110	98
	Prairie	183	152	122	92	83
	Differences	36	31	23	18	15
(e)	700 miles					
	Pacific	267	222	179	132	120
	Prairie	230	192	153	116	104
	Differences	37	30	26	16	16

It will be seen that the 1922 reductions left the differences between Prairie and Pacific standard rates just about half of what they had been before. The gain to British Columbia was very considerable, but that province will not be content until there are no differences at all.

Since the Equalization Case of 1922 the interest in transportation problems has been almost entirely taken up with the controversy over the Crow's Nest Pass Agreement. In 1922 Parliament had decided to prolong the suspension of that Agreement for another year, and at the end of that time the government made use of the discretionary power given it to prolong the suspension for still another year. The Agreement was, therefore, to come back into force on July 6, 1924.

Before this date, however, the railway companies presented a memorandum to the government pointing out the inadvisability of reducing rates to the Crow's Nest levels at that time. Also this Agreement had been drawn up in 1897, and conditions in 1924 were very different. The sources of supply of many of the enumerated articles in the Agreement had completely changed. The rates provided in the Agreement might have been justified in 1897, but since then operating expenses had increased enormously and it was unfair to ask the railways to charge such low rates. Also the Crow's Nest scale of rates would discriminate against the new sources of supply for the Prairies -- notably, British Columbia. Despite the strength and soundness of these protests, the government allowed the Agreement to come back in force on the specified date.

The railways thereupon decided to adopt a policy of strict interpretation of the Agreement. The Crow's Nest rates were put in force only on the lines of the Canadian Pacific which existed in 1897, the territory to which these rates had been extended afterwards not getting them back again. This, of course, provoked many complaints of unjust discrimination. The Board referred all these complaints to the government, pointing out that the Board had no jurisdiction in the matter. The government apparently did not know how to deal with the matter, but finally decided that the Board of Railway Commissioners had been created to handle such problems and that that tribunal must settle the question. The Board consequently began hearing the case in September of the same year. Representatives of all sections of the country were present to put before the Board the viewpoints of the various interests affected.

The position of the Prairies was that the Board could not raise the rates above the Crow's Nest Pass Agreement level for places on the Canadian Pacific as it existed in 1897. But on the other hand the Railway Act expressly forbade discrimination, and where discrimination was found to exist the Railway Board was under an obligation to remove it. As the rates for places in Western Canada to which the Agreement did not apply, were very evidently discriminatory, the Board was bound to remedy the situation. The only legal way to do this would be by lowering all the rates in the West to the Crow's Nest level. This the Board was asked to do at once. At the same time it was argued on behalf of the Prairies, that the Crow's Nest Pass Agreement was not an arbitrary enactment forced upon the Canadian Pacific. That railway had accepted it voluntarily, understanding that it was to continue in force for an unlimited time, and at the same time received very substantial benefits in return for lowering its rates.

On behalf of British Columbia, it was argued that the Crow's Nest rates greatly discriminated against that province. The Agreement not only did not include British Columbia within its benefits, but greatly widened the markets of Eastern manufacturers at the expense of British Columbia. If the Crow's Nest rates must be retained, British Columbia was entitled to a reduction in rates eastward from the Pacific coast to enable it to compete in Prairie markets. This would be the only solution fair to British Columbia. When the Agreement was made British Columbia had been hardly an economic entity and did not ship to any extent to Prairie markets. But now, because of the Panama Canal, Vancouver was a possibility as a distributing centre for Western Canada, ahd it would be most unjust and discriminatory to prevent Vancouver serving in this capacity by imposing high rates.

The Maritime provinces did not think it just to fix limits to Western rates by an act of parliament, and at the same time let it remain possible for rates in other parts of the country to increase indefinitely. There was a very great danger that Western rates might become unreasonably low, and other sections of the country be burdened with high rates to offset this.

The railways' case was that there had been no violation of the Crow's Nest Pass Agreement. But at the same time it was not desirable that the Crow's Nest rates should continue in force. Moreover, it was maintained that the Board did have the necessary authority to override the Crow's Nest Act. It would be unreasonable to contend that parliament had intended the Crow Agreement to remain in force forever. When the Railway Board had been created in 1903 it was given the necessary authority to fix and maintain reasonable rates, and that parliament could not have meant this power to be restricted by the Crow's Nest Pass Agreement. The purpose of the creation of the Railway Board was to insure fair and reasonable rates to both shippers and carriers, and was meant to supersede the old method of trying to maintain reasonable rates by prescribing maximum limits through legislation. And while it was true that the Board on former occasions had expressed the opinion that it could not override the provisions of the Crow's Nest Act, no definite judgement had been made on this question for no case had ever been held to decide this particular point.

And not only could the Board remove the Crow's Nest rates, but at the same time it was desirable that it should. Rates which were fair and reasonable in 1897 could not be expected to be adequate in 1924. ~~That~~ The rates in force prior to the restoration of the Agreement rates in July had been considered perfectly fair by the Board, and consequently these rates should be again brought back in force. And lastly, other railways not parties to the Agreement at all because of competitive forces were compelled to lower their rates to the Canadian Pacific level. This was most unjust to the Canadian National Railways.

The finding of the Board was that the Crow's Nest rates were the cause of chaotic and discriminatory xxxxxx conditions, and that this scale of rates ought to be abolished if legally possible. The Board then reasoned that it was its duty to remedy rate conditions which involved discriminations, and that therefore it must override the Crow's Nest Act. So far as the Railway Act of 1903, creating the Railway Board, is concerned, nothing can be found in it implying that the broad powers given to the Board were to be restricted in any way. Also, the statement contained in the judgement of Sir Henry Drayton in the Fifteen Per Cent case could not be taken as binding on the Board. In 1917 this question was only incidental to the case, and was not examined in all its graver aspects. At present it was the main issue. The legislation of 1922 was apparently inconsistant with the Railway Act of 1903, but the Board's course was to disregard this special legislation and rely upon its general authority. In consequence of this finding the railways were ordered to restore on October 27 the rates which had been in existense immediately prior to the lifting of the suspension on the Crow's Nest Agreement.

The decision was not a unanimous one, however.

Two judges dissented, holding that the Board did not have the necessary authority to override the Agreement, and that if the Board did have this authority the legislation of 1919 suspending the Agreement and that of 1922 restoring it had been quite unnecessary.

The Prairie provinces at once petitioned the Dominion government to overrule the Board's order and not permit it to go into effect. At the same time leave was asked of the Board to appeal to the Supreme Court on the matter of the legality of the Board's decision. This permission was granted.

The decision of the government was that the Board's order should be suspended pending the judgement of the Supreme Court on the legal questions involved. The latter issued its judgement on February 26 of the present year.

It decided firstly that the Board was not empowered by the Railway Act or anyother act to authorize rates on the Canadian Pacific Railway in excess of the maximum rates in the Crow's Nest Pass Agreement. But at the same time the Agreement was not binding on traffic from ~~Rxxk~~ points east of Fort William which were not on any line of the Canadian Pacific in 1897.

Similarly the Crow's Nest rates need not be enforced to traffic for points West of Fort William which were not on any line owned, o leased or operated by the Canadian Pacific at the time of the passing of the Crow's Nest Act. The Railway Board was also not empowered to authorize rates on grain and flour moving eastward from Prairie points in excess of the Crow's Nest rates.

The Supreme Court has declared the Crow's Nest Pass Agreement to be binding on the Canadian Pacific (and, practically speaking, on the Canadian National as well), and the Board of Railway Commissioners is helpless in the face of it. The settlement of this troublesome question consequently devolves upon parliament, and it is to be hoped that that body will not defer the final solution of the problem for very long. It is in conceivable that an agreement adapted to the conditions in 1897 should be expected to govern the present and future situation. The Agreement is unfair to the railways and to the sections of the country to which the Agreement does not apply. If rates throughout the Dominion were given statutory maxima, our rate problems would be endless political questions . The best thing parliament could do would be to repeal the Crow's Nest Pass Act entirely and let the Board of Railway Commissioners handle the situation. That body has the necessary technical training in railway affairs To deal properly with the rate situation, and at the same time would not be influenced by political considerations.

In our outline of the development of the rate structure we have seen that Western rates have been brought almost to a parity with Eastern rates. This problem ~~might~~ as one of first importance might be considered as practically over, if it were not for the complications arising from the Crow's Nest Pass Agreement. The settlement of this Crow's Nest problem is necessary before any further adjustment of the rate spread between the East and the West can be made.

But standard rates in British Columbia continue to be considerably higher than on the Prairie, despite the fact that the differences in the two sets of rates have been greatly reduced. In November, 1924, the Railway Board again heard British Columbia's case for equalization, but have not passed judgement as yet. Equality is evidently to be the ultimate outcome, and the controversy on the subject will not die down until equality has been attained. At the same time it must be remembered that differences in the rate levels in different districts are in themselves not of prime importance. The rates on stable commodities moving through more than one rate territory, the markets which certain rates make possible, distibutive rates, and so on, are all of more vital importance. The rates on grain ~~kexxkex~~ from the Prairie to Vancouver for export mean more to British Columbia than the fact that an article of a certain class can move a hundred miles in that province at the same rate at which it could move a similar distance on the Prairies. To the Prairies grain rates must overshadow all others in importance, and grain rates have nothing to do with the question of equalized rates.

Chapter IX

THE COST THEORY OF RATES IN BRITISH COLUMBIA

Hitherto we have noticed that rates in British Columbia have been higher than on the Prairies, but have not stopped to examine the validity of the arguments in support of this discrimination. In Eastern Canada rates are relatively low because of water competition and competing United States railways. These factors control the rate levels in that area.[1] But in Western Canada there is no such water competition and only a negligible amount of foreign railway competition. The Canadian railways have thus been able to build up the rate structure in the West best suited to themselves.[2] But at the same time they claim it is necessary to discriminate against British Columbia because of the geographical disadvantages of that province. For many years these arguments were accepted as true without serious question, and while sympathy was expressed for the unfortunate ~~disadvantages to Br~~ position of British Columbia, it was thought that these conditions could not be altered for many years. And British Columbia until the last few years never attempted to contradict the fact that

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[1] There are innumerable cases which illustrate the influence of the Great Lakes on Eastern rates.

[2] Transcontinental rates that conform to ~~American~~ those in the United States. There is, of course, a possibility that Western traffic might be diverted to American railways, but Canadian rates would have to be made much higher than at present for this to take place.

operation through the mountains was very expensive, but held that these costs should be borne by the railway systems as a whole and also that the province was entitled to special consideration based on the Terms of Union with Canada. Lately, however, British Columbia has been challenging the facts as presented by the railways, and maintains that there is no good argument for discrimination based on the theory of higher costs. The rate level in British Columbia is noticeably higher than on the Prairies, and as this is *prima facie* an undesirable state of affairs, it is necessary to find out if there is any good reason for this discrimination.

High rates in British Columbia have generally been justified by the railways on the grounds; that the cost of construction in that province is very high because of its mountainous nature; that it is also a great deal more expensive to operate within British Columbia than in the Praire country; that the density of traffic in British Columbia was small, so that each unit of traffic must be called upon to bear a rather large share of the general expenses and fixed charges; and lastly, that there is but little diversity of traffic in British Columbia, and that movements ~~in opposite directions~~ do not balance well with respect to direction so that the charges on traffic moving in one direction must be large enough to cover the movement of empty cars in the other.

The cost of construction argument has little to support it, and as a matter of fact the railways themselves no longer put it forward seriously. In the first place, the Canadian Pacific line from Port Moody to Savona's Ferry (213 miles) was built by the Dominion government and handed over to the company without costing the latter a cent. And for the rest of the line the Canadian Pacific admits it has no record of the cost of construction. The Canadian Northern figures are available and they show construction costs in British Columbia to be not so great as in the region north of Lake Superior. The following are some interesting ~~figures~~ statistics in connection with these costs of construction:-[1]

Canadian Northern Ry.	Mileage	Cost	Cost per mile
Kamloops-Hope	168.8	$22,545,560.32	$133,563.74
Montreal-Ottawa	116.6	19,933,368.64	178,614.11
Hope-Fraser River Jct.	77.7	4,004,969.15	51,544.01
Montreal-Jolliette (including Maissoneuve Terminals)	36.3	3,789,967.08	104,464.00

[1] Taken from a "Memorandum for the Hon. John Oliver Re Railway Transportation Service and Cost" prepared by Mr. G. G. McGeer, 1924.

Construction Costs of C. Nor. R. (continued)

	Mileage	Cost	Cost per mile
Fraser River Jct.-			
Grand View, Man.	1381.5	$76,771,853.08	$55,572.17
Montreal-Winnipeg	1451.2	86,075,473.67	59,313.38
Other Railways			
National Transcontinental	2007	$166,698,645.64	$83,051.61
Intercolonial, and			
N. B. & P. E. I. Ry.	1593	141,521,090.39	88,839.35
Quebec & Saguenay	63	7,374,508.71	117,055.70

The above statistics ~~imply~~ show that it cannot be taken for granted that the cost of construction in British Columbia is enormously higher than elsewhere in Canada, but at the same time it could not be denied that railway construction on the Prairies was much less costly than in British Columbia. The Canadian Northern, of course, did not encounter the same difficulties in construction that the Canadian Pacific did, and at the same time was very economically built. The Canadian Northern costs of construction can therefore not be taken as typical of the Canadian Pacific. And it is further maintained that the Canadian Pacific costs must be considered in the rate-making, or otherwise that railway would be ruined. But the point is that the Canadian Pacific has no statistics whatever of its costs of construction. How then could it calculate to what extent British Columbia rates ought to be above those elsewhere? The rates could be only guessed at. It is not to be expected that British Columbia would be satisfied with such rates.

Then again, it is questionable as to what extent British Columbia ought to ~~pay~~ bear the burden of the high costs of mountain construction. Each division of a railway system is not constructed for the benefit of that division alone. It is of service to every place which either produces or consumes anything which must pass over the lines of that division. The Superior Division[1] of the Canadian Pacific involved heavy costs of construction, but these were not incurred for the scattered settlements in that district. Rather, this line serves as ~~this~~ a necessary link between East and West and over it is carried all that moves between the two sections of the country. Obviously, the people of Thunder Bay and Algoma ought not be expected to pay for the line. The expenditure incurred in British Columbia in a similar way benefits other provinces as well. All the movements between British Columbia and the Prairies, between British Columbia and the East,

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[1] The part of the line between Sudbury and Fort William.

and all Canada's imports and exports via the Pacific Coast which are destined for or originate east of the Rockies, all take advantage of the lines built through British Columbia, and the benefit is not to that province alone. When the Canadian pacific decides to build a thing such as the Connaught Tunnel to do away with difficult grades and curves, it does not incur ~~that~~ the expense for the benefit of British Columbia alone. As a matter of fact Mr. Beatty, at that time counsel for the railway, said as much in the Western Rates Case: "The expenses which we make on the British Columbia Division just now are not for the benefit of British Columbia traffic." He was referring to the building of the Connaught Tunnel. If it were possible to calculate at all accurately just how much any particular section of the country benefited by each piece of railway construction, it would be reasonable enough to try and make that section bear its proportion of the expenditure through the rates it pays. But no one as yet has come forward with plan by means of which such benefits may be calculated.

Lastly, the whole argument for higher rates because of higher costs of construction rests too much on the assumption ~~that~~ of a cost theory of rates. Railways do not base rates on cost; firstly, it is impossible to determine the cost of ~~making~~ carrying any particular commodity between two particular places because railway costs are so largely joint; secondly, because it would not be in their interests to do so even if possible; and thirdly, it would not be in the interests of the public, for a ton of silk would bear no higher rate than a ton of gravel and commodities with a low value per unit weight as lumber would never be able to move any but the shortest distances. The costs of construction are paid by the railway in the form of interest on the bonds and loans by means of which it financed the construction. This interest becomes part of the fixed charges of the railway, and must be met whether the railway operates or not. The rate charged for carrying any particular shipment must be sufficient to pay for the extra costs incurred by carrying it rather than leaving, and at the same time leave something over to go towards paying expenses such as maintenance which cannot be allocated to any one shipment and also the fixed charges. Obviously, the railway is interested only in the fact that all the individual shipments in the aggregate contribute enough to meet these general and fixed expenses. Some shipments contribute less than their proportionate share, so that others must contribute more. How much each shipment contributes is determined by various competitive forces. One railway may have a somewhat roundabout route to a certain place, but must charge comparatively low rates to meet the competition of another railway. Two producers compete in a market that is somewhat nearer one than the other. But the railway will give the same rates to both (or be compelled to) so that neither will be at a disadvantage. Both rates cannot be based on cost. The Canadian Pacific Railway must meet its fixed charges from the revenue it earns on its system as a whole. There are not eight separate companies corresponding to the eight divisions of the railway. What should be each division's share cannot be determined, but the total contributed by all the divisions must pay for the expenses incurred by the railway as a whole. It cannot be supposed that the Canadian Pacific (which sets the rates for the West) makes any attempt to set rates for each division which will earn a revenue sufficiently large to cover the expenses of construction and operation within that division. There would be no advantage to the railway in attempting to do so, and at the same time it would be courting bankruptcy. As a matter of fact, it is only in the instance of rates in

British Columbia that cost of construction has been advanced -- in a general sort of way -- as a reason for higher rates. Railway rates in Canada have been made in accordance with the vague principle of "what the traffic will bear."

The high cost of railway operation in British Columbia as a reason for high rates is open to much the same objection as the cost of construction theory. The railways as before are interested primarily in fixing rates such that the revenue from the whole system will cover the operating expenses of the whole system. But there is one important difference between operating and construction costs. For every shipment that is carried there is some expense incurred which would not have to be borne if the particular shipment were not carried. This amount must be the lowest rate at which the railway could agree to take the shipment without carrying it at a loss. It might not contribute its proper share towards the fixed charges and general expenses of the railway, but as long as it can contribute something it will -- other things being equal -- better for the railway to accept the shipment than refuse it. Cost of operation, therefore, furnishes a minimum rate only.

Thus, in theory at least, the part cost of operation plays in rate making is that of fixing the minimum.xxxxxx But in actual practice we find that there is no way of calculating just what the extra cost of carrying any particular shipment. In fact, there are two many general expenses -- such as maintenance of way, a great many wages and salaries, etc. -- which cannot be even apportioned between the freight and passenger traffic on any scientific basis. In the case of any one shipment it is quite impossible to calculate the actual cost of carrying it as so many factors must be considered. Then again it costs no more, say, to run a passenger train completely filled than one only half filled. Yet the revenue would be greater in one case, but the fares would be the same in both instances. But in determining what the fare should be, which train should be taken as the typical one?

The railways, of course, compile a great quantity of elaborate statistics setting forth their expenses for each division. We shall note some of the more important of these and try and discover what light they throw on the present subject.

I. Expenses per Train Mile by Divisions, C. P. R.

	1917	1920	1921
British Columbia[1]	2.422	4.560	4.528
Alberta	1.879	3.362	3.318
Saskatchewan	1.942	3.162	3.309
Manitoba	2.116	3.767	3.757
Algoma	1.636	3.017	3.114
Ontario	2.198	3.734	3.655
Quebec	2.530	4.344	4.294
New Brunswick	2.487	4.355	3.787

II. Expenses per Car Mile by Divisions, C. P. R.

	1917	1920	1921
British Columbia	0.112	0.215	0.232
Alberta	0.090	0.146	0.158
Saskatchewan	0.087	0.149	0.162
Manitoba	0.073	0.137	0.134
Algoma	0.074	0.154	0.163
Ontario	0.107	0.189	0.197
Quebec	0.132	0.247	0.268
New Brunswick	0.136	0.270	0.261

The train mile is of very little use as a cost index. There is too little uniformity in the unit used. A train mile might be a hundred loaded cars moving one mile, or one

[1] Railway divisions do not correspond to provincial boundaries. The British Columbia division begins at Canmore, Alberta.

empty car moving a mile. The car mile is a more uniform unit, but is nevertheless only a poor index of cost. To make a fair comparison a number of other factors -- such as, kinds of commodities carried, capacity of the cars, the number and tractive power of the locomotives to each train, etc. -- are equally proportioned. These statistics can prove little enough, but they do not even indicate that British Columbia operating costs are far above the rest of the country. They are certainly higher than in the Prairie provinces, but the tables show that they are less than in Quebec and New Brunswick in the case of the car mile, and not so very much higher in the case of the train mile. As rates in Quebec and New Brunswick are very much lower than in British Columbia there does not seem to be any justification for this on the grounds of higher operating expenses.

III. Operating expenses per Gross Ton Mile, C. P. R.

	1917	1920	1921
British Columbia	0.00262	0.00521	0.00552
Alberta	0.00209	0.00366	0.00394
Saskatchewan	0.00224	0.00375	0.00405
Manitoba	0.00182	0.00333	0.00327
Algoma	0.00192	0.00377	0.00399
Ontario	0.00274	0.00482	0.00503
Quebec	0.00341	0.00612	0.00662
New Brunswick	0.00362	0.00693	0.00659

The difficulty with the ton mile as an index is that it tells nothing of the kinds of commodities carried. A smaller number of tons of some commodity moving largely in one section of the country, may very well cost as much as a larger number of tons of some other commodity. The conditions with respect to the handling of different commodities varie s greatly. However, the statistics we have again show British Columbia expenses to be less than those in the Eastern divisions though at the same time higher than on the Prairies.

IV. Expenses per mile of line by divisions, C. P. R.

	1917	1920	1921
British Columbia	6.277	12.277	9.971
Alberta	5.115	9.876	7.761
Saskatchewan	4.655	7.788	6.888
Manitoba	7.619	12.065	10.720
Algoma	9.543	18.690	14.452
Ontario	9.577	17.251	15.542
Quebec	11.409	20.922	18.616
New Brunswick	7.456	12.455	10.032

According to this table British Columbia operating expenses appear to be very low. But these figures are almost meaningless, for the volume of traffic moving is of more importance in the final result than actual expenses.

Statistics of the above kinds are those which are brought forward as proof of the fact that British Columbia operating expenses are higher than those on the Prairies, and that consequently rate equalization is impossible. But none of these ways of comparing rates are of much value. If we consider the manner in which they are compiled it will be seen that they cannot reflect at all accurately the true relative costs. In each division are included, firstly, all the expenses of maintenance, general expenses, and the costs of moving trains within that division; and secondly, the expenses of loading, assembling trains, etc., for all traffic originating in the division, as well as all the terminal expenses in connection with traffic destined for for points within the division. This method tends to increase the expenses at the two ends of the country. All the traffic between Saskatchewan, Alberta and British Columbia and Eastern Canada must pass across Manitoba. All this car mileage, ton mileage, and train mileage for the movements within the Manitoba division are accredited to this division. There is no loading and unloading so that Manitoba is not charged with any terminal expenses in connection with this traffic but only for the movement expenses. The expenses per unit in Manitoba must therefore be comparatively low. But on the other hand all the traffic moving in the British Columbia and New Brunswick divisions -- and practically speaking, the Quebec division as well -- either originates or ends within these divisions, so that on each haul there are terminal expenses charged against these divisions either for loading or unloading or both. This, "the middle with ends" fallacy, is well illustrated in the case of the Algoma division. This lies ~~xxxx thxxugh~~ for the most part in almost unsettled territory and very little local business is done by the railways. The expenses of upkeep and movement are very high, but there are practically no terminal expenses to be added on. At the same time the division benefits by the uniformly long hauls it is able to make. The result is that the Algoma division appears to be one of the most prosperous divisions of the Canadian Pacific. The fact of the matter is that it is impossible to consider the Canadian Pacific as -- in effect -- eight railways. Expenses incurred in one division are too frequently really for the benefit of other divisions, and it would be impossible to credit expenses to the different divisions with enough accuracy to be of any use. These statistics as compiled by the Canadian Pacific are useful to the company in many ways, but they should not be used to compare the operating expenses of the different divisions.

In the case of the Canadian National it has been shown that that railway can operate through British Columbia at least as cheaply as on the Prairie. The Canadian National has better grades through the Rocky Mountains than any other railway on the continent. Nevertheless, it is the conditions along the Canadian Pacific which control the rate situation. It has always been maintained that the rates ought not to be what the Canadian National with its better operating conditions could profitably offer. While the Canadian National statistics have been disregarded in the hearings before the Board, they do indicate that ~~Erxkksk~~ if operating expenses are high in British Columbia along the Canadian Pacific it is chiefly because of the route that railway chose, and not altogether because of unfavourable geographical characteristics.

The statistics compiled by the Canadian pacific show operating expenses in the Quebec and New Brunswick divisions to be higher than in British Columbia. Is there any reason to suppose that this might actually be the case, or must we account for it by the imperfections of the tables? At first sight it appears that British Columbia must obviouslybe a difficult division to operate because of the steep grades and many curves which exist along the railway lines. As a matter of fact, however, the only real stretch of mountainous conditions encountered by the Canadian Pacific on its main line is the 140 miles between Canmore and Revelstoke. Between Revelstoke and Vancouver the actual grades are no worse than for a similar distance across the Prairies. It may have cost more to construct the British Columbia line, but once built it is not necessarily so much more expensive to operate and maintain. At the same time British Columbia enjoys certain advantages in operation over the other parts of the Dominion. It has the most favourable weather conditions. It has less trouble with snow and ice. It does not often encounter the severe cold which tends to lessen the efficiency of the locomotives. There is also no alkaline water in British Columbia as is found on the Prairies. In British Columbia, too, there are ready sources of fuel, of timber for ties, etc., of gravel for ballast, and so on. ~~Thix~~ British Columbia is much better off than the Prairies in this respect, and more favourably situated than Eastern Canada as well. And when it is considered that the average haul in the East is short it may be readily believed that the cost of operation in British Columbia is not higher than in the Eastern terminal divisions. The terminal expenses are the same no matter what the length of the haul may be. Thus for any given ton, car, or train mileage, the terminal expenses in the Eastern divisions will be greater because the mileage will be made up of a greater number of individual hauls.

To sum up, there appears to be no justification for charging high rates in British Columbia on the grounds of either cost of construction or of operation. The statistics which are brought forward to prove that the costs are higher are inadequate. The cost theory of rates, on the assumption of which the whole contention is based, is most unsatisfactory. But in any event the injustice appears in the fact that nowhere else in Canada is there any attempt to base rates upon cost. The cost of operation furnishes a minimum rate, but it could not be supposed that rates in British Columbia are even close to that level. The rates in Quebec and New Brunswick are much lower while expenses per unit do not appear to be any lower. If British Columbia rates are at the cost level, the rates in the Eastern divisions must be considerably below it. This is absurd, for no railway could possibly operate under such conditions.

The statistics furnished with respect to traffic density are not satisfactory when used in comparisons between different divisions. In the same fashion as with operating expense statistics, the central divisions benefit at the expense of those at the ends. The density of traffic in Manitoba, for example, is increased enormously by the large amount of traffic which passes across the division but which neither originates nor terminates in it. The density in British Columbia is not boosted in a similar fashion.

The density, diversity and directional trend of traffic are all powerful factors in determining general rate levels. If traffic moves only in one direction it must bear rates sufficiently high to pay for the movement of empty cars in the other direction. Where traffic is not dense each shipment must bear a comparatively large part of the general expenses. It costs no more to build a track which is to be a great deal used, than one which will be used only a little, and its maintenance will cost only slightly more in the one case than in the other. British Columbia has a low traffic density, its traffic is not very diverse, and the movements do not properly balance with respect to direction. It is because of these facts that rates have continued to be high. The difficulty, however, is that cause and effect are too much intermingled. Traffic is likely to be sparse simply because rates are high. A certain movement to a certain market never develops because rates

rates have never been favourable. The population in British Columbia is not large. It might be a great deal larger, but evidently geographical conditions have made it impossible to be spread evenly over the province. In considering the possibilities of low rates to develop a large business for the railways as well as a large population, the fact that certain mountainous districts within the provinces will remain sparsely populated must always be considered. Still, British Columbia is firmly convinced that generally low rates within the province would develop more than enough business to compensate the railways for any loss of revenue brought about by the rate reduction.

Why have the railways never been willing to adopt a general policy of low rates in British Columbia? Simply because it would upset the whole rate structure in the country, and alter channels of trade. The long haul from Alberta eastward is profitable to the railways. The haul from Alberta to the Pacific Coast would not be so profitable. Similarly, the Prairie as a market for Eastern manufacturers is satisfactory to the railroads for it tends to balance the heavy movement eastward and is besides a long and paying haul. It would not be so profitable to give British Columbia control of the Prairie market. At present the Canadian Pacific is able to earn its ten per cent annual dividend regularly -- although this is earned by no means from its railway operations alone. To adopt a new rate policy in British Columbia would mean radical changes in the economic structure of the country. The result would be disturbed conditions for a time, and the net result might or might not be beneficial to the railways. So far as the Canadian Pacific is concerned this would be too risky an experiment. And the position of the Canadian National is much the same. It would be unwise to run the risk of greater losses, and at the same time what is best for the Canadian Pacific may be considered as best for the Canadian National.

Chapter X

RAILWAY RATES AND BRITISH COLUMBIA

The mere equalization of the standard freight rates could not benefit British Columbia to any great degree. An approximate equalization is desirable, but if postponed for a number of years the hurt to British Columbia would not be vital. Equalization in its narrow sense refers only to class rates, and these apply on no more than from ten to fifteen per cent of the total tonnage moving in British Columbia. But at the same time the differences in the class rates are very largely reflected in the local commodity rates. The reasons for the differences are the same in both cases, and there is no need for a separate discussion. A district paying higher local rates than another is of course in a less favourable position, and there will be a tendency for prices to be higher as well. Nevertheless, general rate levels are only high or low relatively. A district paying the higher rates feels it has a grievance and asks for equality.[1] Yet, the low rates paid in another district do not affect the first district in the least, unless it should happen that there is some competition between the districts for markets. It is the effect of rates on market competition that is all-important. Whether a car-load of fruit can be shipped

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[1] It is perhaps interesting to note that there has never been any attempt to equalize the rate levels in the different parts of the United States. Rates in that country differ widely in the different sections.

for a hundred miles in Ontario for less or for more than it can be shipped for a similar distance in British Columbia, cannot either hurt or benefit the British Columbia shipper. If he pays more he thinks there ought to be equality in rates, but at the same time the Ontario rate can have no effect on his business. But if Ontario fruit could be shipped to Prairie points for less than from British Columbia there would be a more vital cause for complaint. It is these rates to outside consuming points which British Columbia should take the greatest interest in, They determine the extent of the markets for British Columbia products, and in considering these rates the different commodities must be considered separately. At the same time it is necessary to observe the effect of the railway rates on the export and import business of the Pacific ports. British Columbia claims it is the most suitable gateway for the foreign trade of all Western Canada, but it is the railway rates which determine to what degree this can be the case. It is a matter of competition here too -- competition with the export and import rates to and from the Atlantic ports. Thus, in considering the actual effect of rates on British Columbia it is not the standard class rates, nor the rates local to the province, which must be examined, but the rates on the stable products of the province which can have an outside market, and on the products which can be exported or imported ~~by~~ via the Pacific coast terminals.

A great part of British Columbia's wealth lies in her timber resources. The principal woods are fir, pine and cedar, the first coming principally from the coast districts and the other two from the interior. These are all soft woods, whereas the chief woods from the East are hard. The northern spruce of the East is a soft wood, but is much inferior to those of British Columbia. The result of this is that British Columbia lumber has to meet practically no competition from other sources, and so is allowed to have the whole field to itself. Large quantities of lumber are shipped not only to the Prairies, but into the East itself. Lumber from the interior of British Columbia gets lower rates than that from the coast, while Vancouver Island pays somewhat higher rates. The latter has made some complaints about this, but the higher rates would seem to be justified. The Prairie provinces do not get a blanket rate on lumber from British Columbia, but the nearer points get lower rates. The rates to places east of Port Arthur are made up of the rate to that place plus a fixed differential. The states of Washington and Oregon ship a great deal of lumber eastward, but it will be seen that the Canadian rates are on the whole lower than the American rates for corresponding distances. The rates from Nelson, a basic lumber point, may be compared with those from Spokane. To points as far east as Brandon and a corresponding distance in the United States, the Canadian rates on fir and pine are slightly higher, but are much lower on Cedar. The rates from Nelson to Brandon and from Spokane to Minot, North Dakota, are as follows:

Nelson to Brandon (fir, pine, cedar)	-	51½¢.
Spokane to Minot (fir, pine)	-	53½
Spokane to Minot (cedar)	-	66½ .

To points farther east the Canadian rates are generally lower on all kinds of lumber, except that the rate from Nelson to Montreal is the same as from Spokane to Boston, New York and Philadelphia. The transcontinental water competition compels this.[1] On the whole there is little cause for the British Columbia lumber men to complain of the rates they pay. They have the whole marketto themselves and the rates do not interfere with the movement. The general rate structure on lumber must be ~~xxx~~ set down as satisfactory.

British Columbia cans fish, fruit and vegetables. The canned salmon, which is by far the most important canned fish, is in much the same kind of position as the lumber. The Atlantic salmon (which is the true salmon) cannot be canned, so that the British Columbia product has the whole market to itself. Large quantities are shipped to the Prairies and to Eastern Canada. It is true that the canned salmon traffic has

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[1] See Equalization of Rates Case, Ottawa, 1922, vol. 385, p. 885-7.

fallen off somewhat, but this is not because the freight rates discourage it. It is simply because the salmon catch is not so large as formerly.

The canned fruit moves in large quantities to the Prairies, but not to the East. British Columbia could have no claim to be allowed into Eastern market. Only a small quantity of canned vegetables go outside British Columbia. Vegetables are too widely grown tobbe shipped either fresh or canned for any great distance. The railways cannot be expected to quote rates low enough to give this product a wide market.

Fresh fish, principally salmon, is shipped to both the Prairies and the East. This commodity goes by express and not by freight. For a number of years the Department of Marine and Fisheries encouraged this traffic by subsidizing the fish dealers of Manitoba and Saskatchewan to the extent of one-third of the express rate. The Department thought the business had developed sufficiently to remove the bounty. The Prairie dealers then complained to the Board that their rates were too high ($2.50) as compared with Eastern rates ($3.00).[1] The Board found the low Eastern rate necessary if the traffic was to move, and did not see how this hurt the Prairie dealers. The case was therefore dismissed.[2] The fish of British Columbia has continued to move eastward, and the express rates do not hinder it.

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1 Blanket rate to Prairie, and to East.
2 Great Fish Co. v Dominion Express Co., 18 C. R. C. 1.

Sugar is another commodity which is shipped eastward from British Columbia. Sugar rates have been before the Railway Board, and the considerations involved may be taken as typical of all the commodities produced in British Columbia on the one hand and in Eastern Canada on the other, ~~hand which~~ and which are competing for the Prairie market. There is a sugar refinery in Vancouver in the West, while in the East there are refineries at Dartmouth, Nova Scotia, St. John, Montreal, and in Western Ontario chiefly at Kitchener, Chatham, and Wallaceburg. The Prairie provinces have thus two sources from which they may get their sugar for consumption. Should the whole Prairie country be open on equal terms to both the Vancouver and the Eastern refineries? This would not be satisfactory to the railways. In the United States sugar is refined at San Francisco, New Orleans, and at several places in the Eastern states. The Chicago and Middle West is a big market, and it will get its sugar from all three directions. The railways serving the Pacific coast do not go east of Chicago and St. Louis, and are interested only in the development of the San Francisco refinery. The trunk line railways stop at Chicago and St. Louis and are interested only in the Eastern ~~railways~~ refineries. And the Illinois Central and other north and south roads wish to build up the southern refineries. The result is that the rates to the Middle West market are the same from all directions irrespective of distance. The Canadian situation is different because the same railways which serve Vancouver also serve the Eastern refineries, and desire to build up both. In consequence of this the rate structure on sugar (and commodities similarly distributed) takes the form of a line where the rate from Vancouver equals the rate from the East (all the Eastern refineries getting the same rate). There will be no large blanket territory. If Vancouver sugar ~~xxxxx~~ competed with Eastern sugar at Calgary and also at Port Arthur, it would mean that the rates at both places would also be the same (or else the long-and-short-haul clause would be very much violated) and ~~xx~~ the over-lapping movement would be just so much waste to the railways. If a railway served Vancouver only but did not go east of Port Arthur it would put in sugar rates enabling Vancouver to compete in the whole of the territory served by the railway. If a railway serving the East went as far west as Calgary at the same time, then a blanket rate would exist. But under existing conditions a dividing line is the solution. The difficulty arises in determining where this line should be. For a number of years the rates used to meet at Portage la Prairie, but the Vancouver refinery could absorb the additional rate to Winnipeg and so compete in that city. Then the Pere Marquette Railway serving Wallaceburg decided to tap the sugar traffic. Connecting with other American railways it lowered the sugar rates from Wallaceburg to Manitoba points served by branches of the Great Northern and Northern Pacific. The Canadian Railways to keep the business in Canada were compelled to lower their rates from the East to Manitoba proportionately. But the rates from Vancouver were not lowered, so that the dividing line was pushed farther west. It was not a matter of first importance to the railways as to just where the line should be, and therefore they reasoned that if rates from the East were forced down there would be no advantage in lowering the rate from Vancouver as well when not compelled to. There was, of course a complaint about this; but the Board decided that it was the right of a railway to lower rates which were already reasonable if forced to by competition, but could not be compelled to offer such a low rate if it did not wish to.[1] The dividing line continued to shift, but the Western Rates Case set it at Portage la Prairie again. But in 1918 during the general rate increases the line was moved westward to nearly Regina. In the 1922 Equalization Case the matter came up again, and an unsuccessful attempt was made to move the meeting point back

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[1] B. C. Sugar Refining Co. v C. P. Ry. Co., 10 C. R. C. 169, (1910).

to Portage la Prairie. The Canadian Pacific intimated that it would be perfectly satisfactory to it, if the men interested in the sugar rates would get together and determine for themselves where the dividing line should be. But it is not likely that this could be done, or any satisfactory decision reached. It would be difficult to determine even impartially where a fair meeting point of the rates should be. Portage la Prairie is about half way between Montreal and Vancouver and might be the fairest dividing point. It permits the Vancouver sugar to get into Winnipeg and is therefore satisfactory to the British Columbia refinery. But there are more refineries in the East and they feel that the Regina-Saskatoon dividing line is fairer, because producing more sugar they ought to have a larger share of the market in dispute. The only solution would seem to be a compromise. The sugar question is typical of the situation which will probably develop if British Columbia begins to send manufactures and other goods to the Prairies in competition with the East.

Fruit is another commodity of importance moving eastward. Fruit is a perishable product and must go by express and not by freight. Scarcely any Ontario fruit is shipped to the Prairies.[1] But the British Columbia fruit

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[1] I was employed one summer by the Canadian National Express Co. and handled the fruit shipped out from the Niagara peninsula. Though there were thousands of shipments daily to all parts of Ontario, Quebec and the Maritime provinces, only on two or three occasions did any fruit go to the West and this to only Winnipeg and Brandon. It will be recalled that the Crow's Nest fruit rates have nothing to do with the express companies.

has competition in this district with American fruit. The latter was the first to enter the Prairie market and had an established business there before the British Columbia fruit industry ~~surely~~ really began. The problem in this instance is chiefly ~~xxxxxxx~~ one of keeping the American fruit out by a customs duty. The British Columbia fruit men want a high protective tariff, while the Prairie consumers are perhaps more anxious to get their fruit cheaply than to get it from British Columbia alone. Low rates might drive out the American fruit, but express rates can never be very low. Also the express companies give a service different from the ordinary freight service. They ~~and~~ divide all their traffic into half a dozen major classes and are not inclined to quote special rates. Their business is handling small shipments of high grade articles and they rarely put in special commodity rates on even the perishables they carry. Also it would be possible for the rates on American fruit to be lowered. The express rates are therefore not the difficulty. The interests of the British Columbia fruit men would be best served by placing a high duty on imported American fruit.

Oil from British Columbia is shipped into Alberta. This oil is refined at Ioco by the Imperial Oil Company, which ~~and it~~ imports its crude oil from South America. This company also has a refinery at Regina, from which Saskatchewan is supplied. In this case the crude oil is imported from Wyoming. The company also refines oil at Sarnia, and Manitoba is supplied from here by way of the Great Lakes and Fort William. This oil is from the Western Ontario oil fields. With the same company refining oil in different parts of the country, this division of the Prairie market seems the best. There would be no purpose in shipping oil from Ioco farther east. At the same time there are other companies supplying the Prairie market. Refined oil is shipped into Alberta from Caspar, Wyoming, and from other places in the United States. In the case of these American refineries the crude oil is right at hand and does not have to be brought from a long distance, so that it can be charged higher rail rates into the Canadian West and yet compete. To meet this situation the rate from Ioco had to be lowered. The Canadian Oil Company of Petrolia, Ontario, also ships to the North-west and has asked for rate reductions to meet American competition. But in the case of a product like oil which has several sources of supply, no one source may expect to supply a very wide market. The competitive conditions are not due to the railway rates.

Another commodity of some importance shipped eastward from British Columbiax is rice. As this is milled and cleaned in Canada it is not altogether an import. Before the war a mill in Montreal supplied nearly the whole Canadian market. It received its raw rice from India by an all-water haul. The outbreak of the war cut off the supply of rice from this source, and the Montreal mill began importing from Siam, China, etc., via Vancouver. A low transcontinental rate was necessary on the railways to meet the possibility of competition via the panama Canal.[1] With the raw rice moving across the continent, there was no reason why the rice milled at Vancouver and Victoria should not. The demand for rice had considerably increased so that the Pacific coast mills were enabled to ship their rice right into Eastern Canada. This they still do, though there is a possibility that the rice from Louisiana and Texas mills with its shorter haul may get into Eastern Canada on rates that it would not be profitable for the Canadian railways to meet. The British Columbia rice (from China) is, however, of a better quality than the rice milled in the United States (chiefly from Japan and China).[2]

paper, both building and roofing, from the mills at Ocean Falls and Powell River, is another British Columbia product of some importance which finds a market on the Prairies.

Besides the commodities which may be considered as British Columbia products, there is added to the volume of

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1 Martin & Robertson and Imperial Rice Milling Co. v Canadian Freight Association, 24 C. R. C. 141.

2 See Equalization of Rates Case, 1922, p. 858-61.

eastbound traffic a number of imports, most of which come through the port of Vancouver. Practically all the imports from the Orient and the East Indies enter Canada at the Pacific ports. These consist principally of silk, tea, coffee, cocoa, fruits, gums, fibre, indigo, manganese, black oxide, nitrate of soda, certain oils, raw rice, raw sugar, etc. Most of these are of very little importance. The tea goes all over Canada -- even as far as Halifax -- but the total tonnage of tea moving is necessarily small in comparison with a number of other articles. The coffee can get as far as Winnipeg, but as most of the world's coffee supply comes from Brazil and other South American countries most of the imported coffee comes through the Atlantic ports. The Vancouver coffee could not expect to compete in the East. The sugar is refined in Vancouver and the rice milled at either Vancouver or Victoria. The others are of but slight importance. Manganese was of some importance during the war. Nearly all of it goes to the smelters in Pittsburgh. Castor oil goes to the soap factories at Winnipeg and Hamilton. The fruits will not carry. The rest come in in but small quantities.[1]

The opening of the Panama Canal should make possible

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[1] See Equalization of Rates Case (1922), Vol. 385, p. 878-81.

the import of many things from the United Kingdom, Europe, and from the Atlantic coast of the United States and Canada. At present, however, there is nothing of very much importance importance arriving at British Columbia ports from these sources. There is nothing which the railways could be expected to carry to Prairie markets.[1]

Of all the commodities moving eastward from British Columbia, lumber is more important by far than all the rest put together. It is a bulky commodity and makes for a large tonnage. If it were not for the lumber moving eastward, there would be little possibility of the railways putting low export rates to the pacific ports on grain, for there would not be a sufficient tonnage in the opposite direction to balance this movement. Most of British Columbia's important products find a market on the Prairies, yet the movement from Eastern Canada is much greater. This consists chiefly of a great variety of manufactured products. As things are at present, it cannot be said that the rates eastward from British Columbia hurt the industries of that province to any great extent. Lower rates are desirable on a number of things which might be manufactured in British Columbia and shipped to the Prairies. This would probably not be in

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[1] The statistics of the exports and imports of the port of Vancouver published in "Harbour and Shipping" (monthly) are the most readily obtainable.

the best interests of the railways which prefer the long haul from Eastern Canada. The movement from Eastern Canada also helps to balance the heavy movement of grain eastward, and the heaviest shipments to the West are during the grain season. In considering the possibility of a large import trade through Vancouver to the Prairies, it must be remembered that two-thirds of Canada's imports are from the United States and involve no water movement at all. About two-thirds of the remaining imports come from the United Kingdom and Europe, and the bulk of this will naturally enter Canada via the Atlantic ports. Thus under the present circumstances the actual railway rates from British Columbia eastward do not seriously hurt either British Columbia's home industries or its import trade. Lower rates on many things might develop several new kinds of traffic, and with a growing export grain trade it is probable that new movements eastward will have to be developed to create a balance.

CHAPTER XI

EXPORT, TRANSCONTINENTAL, DISTRIBUTIVE, PASSENGER, AND EXPRESS RATES

All the products of British Columbia for export naturally go via the Pacific ports. These include lumber, shingles, wood pulp, canned fish, frozen, salt and cured fish, lead and spelter, and apples. But British Columbia ports also wish to handle the export business of all western Canada. The exports of the Prairies are wheat and flour, and these commodities are easily Canada's most important exports. The Pacific route is possible only if railway rates are favourable. What, then, is the present situation?

Grain growing is the basic industry of the prairies. The amount grown is more than can be consumed in Canada, so that a great deal of the grain must seek outside markets. Almost four-fifths of the export grain goes to the United Kingdom and to Europe. Of the rest, the United States takes about two-thirds and Japan and China nearly all the remainder. The European market is thus by far the most important, and it appears as if it will remain so for some time to come. The Oriental market has grown, but wheat is not regarded as a necessity by the Oriental so that he will buy only a limited amount.

Being so far away from his principal market and also so far from tide-water, the transportation problem is necessarily important to the Prairie farmer. The distance the grain has to be shipped makes high transportation charges necessary no matter by what route it is shipped. ~~The Prairie~~ These transportation charges make up a very large ~~price~~ part of the total cost of the grain, so that there is every reason why the railway rates should be such that the grain can travel by the least costly route.

Up till a few years ago practically all the grain moved eastward. The movement was to either Fort William or Port Arthur, the rates being greate~~st~~ for the longer distances. At Fort William and Port Arthur most of the grain was transferred to the lake freighters. There were several alternative routes. ~~It~~ The grain could be carried to one of the Georgian Bay ports as Depot Harbour, Port McNicoll, or Midland, and then moved to Montreal by rail. Or it could be shipped farther down the Lakes to a place such as Goderich, and transported from there by rail to Montreal. If it went down to Lake Erie it might be landed at Toledo, Cleveland or Buffalo, and thence go to one of the United States' Atlantic ports for export~~s~~. It also might be landed at Port Colborne, and there either put on a smaller ship which could pass down the Welland Canal and so reach Montreal by an all-water route, or else move from Port Colborne to Montreal by rail. The Western grain crop is a heavy one -- in fact, grain comprises about fifty-five per cent of the total tonnage carried by the railways in Western Canada -- and as the movement takes place in the fall, there is always a rush to get as much grain as possible to the head of the Lakes before the season of navigation closes. The remainder of the grain must be shipped all the way to the Atlantic by rail. With the port of Montreal closed during the winter months, St. John becomes the exporting port.

With the opening of the Panama Canal, Vancouver began asking for export grain rates from the Prairie to the Pacific coast ~~xxxxxxxxxx~~ low enough to make a movement in that direction possible. Vancouver's argument was ~~that~~ and is that the route is a very practical one. The rail haul is a comparatively short one, and the longer water haul does not mean very much higher rates. Each year there is a great congestion at the head of the lakes, and the handling of the grain crop is always a difficult problem. At the same time more and more grain continues to be exported via the United States, which is of course not desirable. Vancouver (and possibly Prince Rupert) is without question the only gateway by which the grain for the Orient should go. But as this is not a very large movement, the Western route would be of but little importance if it were not possible to ship to the European market via the Panama Canal.

But despite the advantages of the Vancouver route, the railways have been slow in diverting the grain movement in that direction. It was feared by some at first that wheat could not pass through the tropical heat of the Canal zone without "sweating" and spoiling. It is now apparent that such fears were groundless, and indeed before the panama Canal was ever built wheat had occasionally gone from Vancouver to Liverpool via Cape Horn without being spoiled in the least by the heat. The railways also seem to prefer the long haul eastward to the short haul westward. Besides being a longer haul, the Eastern route results in a better balanced movement. It is also the old established route and the railways are never anxious to break up the long accustomed channels of traffic to experiment with new ones.

In spite of the lack of enthusiasm on the part of the railways, Vancouver has developed into an important grain port ~~with~~ in a remarkably short time. The following are its wheat exports in bushels since 1921:[1]

	1921	1922	1923	1924
To Orient	359,429	3,681,150	5,397,108	13,817,083
To United Kingdom	891,642	10,783,738	18,771,505	40,772,974
Tp South America	....	4,193	494,404	156,403
To Other places	....	....	....	1,127,328
Totals	1,251,071	14,469,081	24,663,017	55,873,788

[1] Taken from "Harbour and Shipping".

Besides the large increases in the total amount exported, it will be noted that a very large quantity of grain is able to find its way to the British market by this route.

The rate by the Eastern route is made up of the rail rate to the head of the lakes, the water or water compeeled rate to the Atlantic seaboard, and the ocean rate. The rate by the western route consists of the rail rate to Vancouver and the water rate to Europe (Liverpool principally). Allowing for differences in marine insurance, port dues, the Panama Canal toll, and so on, there must be some point or points at which the combined rate in one direction equals the combined rate in the other. For points east of this the rail haul to Fort William or Port Arthur will be somewhat less, and that to Vancouver somewhat more. The combined rate by the Eastern route will therefore be the lesser and the grain will move that way. Similarly for places farther west the advantage will be for the Vancouver route. In other words there will be a dividing line somewhere in the Prairie, ~~the grain~~ and from points east of it the grain will go via the Atlantic ports while from points west of it it will go via the Pacific. Where should the line be? It used to be such that the whole Prairie grain-growing area was east of it. But gradually the rates to Vancouver have been reduced in the face of persistent demands. On Sept. 13, 1920, the rate from Calgary to Vancouver was 35¢. On Jan. 1, 1921, it was reduced to 34¢; on December 1 of the same year to 31¢; on August 1, 1922, to 25¢; and on October 22, 1923, to the present rate, 22½¢. From Calgary to Fort William the rate is 26¢. The mileages in the two cases are 642 and 1,310. The reductions from Calgary are typical. At present the dividing line is just east of the Saskatchewan-Alberta boundary. This is not satisfactory to Vancouver, which claims the territory is not fairly divided. This is because Alberta is at present the smallest grain producer of the three Prairie provinces, though there is a likelihood of it becoming the greatest in the future. But for the present Vancouver thinks it is not getting its fair share of the traffic, and wishes to handle the grain of the greater part of Saskatchewan.

Such is the export grain problem. The case of flour is similar, and there is no other Prairie export of any great importance. It must be remembered that the Crow's Nest Pass Agreement ~~attempts~~ stipulates what are now very low rates on grain moving east. Thus the rates to Vancouver meeting this competition also have to be low. The result is that Canada gets the lowest grain rates in the world. But the European market is so far away that the total rates to be paid to ship grain there amount to a considerable sum, so that the Prairie farmer is apt to grumble at the rates. The opening of the Western grain route would seem to improve the situation for him by establishing an alternative route. There are a number of other possible routes which may alter the export grain rate structure still further. The Hudson's Bay route -- whether practical or not -- is more than a possibility, as Manitoba and Saskatchewan are apparently determined to have it. At the same time the Timiskaming and Northern Ontario Railway is being pushed up to James Bay, and it might carry some of the grain traffic. The ~~Wellandxx~~ new Welland Canal is nearly completed, and this will make the Eastern route more attractive by doing away with the necessity of unloading at Port Colborne. The much talked-of St. Lawrence deep waterways scheme may also become a reality sooner or later. It would then be possible to load grain at the head of the Lakes on ships which could carry it straight to Liverpool. This would insure the bulk of the grain moving eastward instead of west.

In connection with the grain rates, the complaint of British Columbia concerning its domestic grain rates should be mentioned. From Calgary, for example, the rate on grain for export is 22½¢, while for domestic use it is 41¢. It is then argued that if the 22½ cent rate yields a profit to the railways (and if this rate did not the grain would probably not be carried) the 41¢ rate must yield very exorbitant profits. This sort of complaint is one which is continually arising, and which is nearly always turned down. It is a long established principle that export rates must be lower than domestic rates. The reason for this is partly because the export rate is only a part of a through rate which is necessarily less in proportion to distance, but chiefly because each port is competing with each other for the export business while there is no such competition in the domestic business. On the face of it the 41¢ rate might seem to be quite out of line with the 22½¢ rate, but no proper conclusion could be reached without a great deal of technical study of the facts. It must be remembered that what the export rate is has really no effect on the domestic rate; and also that the 22½¢ rate is probably much less than is sufficient for the export grain to contribute its proper share of general expenses and fixed charges of the railway, so that the domestic rate must contribute somewhat more.

Before ever the Panama Canal was built, the possibility of communication between the Atlantic and Pacific coasts by water compelled the railways to charge low transcontinental rates. Vessels could make the trip around Cape Horn, or they could land their cargoes either at Puerto, Mexico, and have them carried via the

Tehuantepec National Railway to Salina Cruz on the Pacific where they could be loaded on a north bound vessel, or else land them at panama and have them carried across the Isthmus by the Panama Railway and thence northward by vessel. All of these routes have been important, and the only reason that the bulk of the transcontinental traffic has not gone over them is that the railways have always kept in force low transcontinental tariffs. There was always the danger of the movement being diverted to the cheaper water hauls if the rail rates were raised.

Until 1916 the competition which existed for the transcontinental business between the American and Canadian railways resulted in the same tariff applying in both countries. In that year, however, the Canadian Freight Association began filing transcontinental tariffs of its own.

Rates to and from the Pacific coast ports and Eastern Canada were compelled to be unduly low because of the water competition. But to places in the interior there was not the same necessity for charging low rates. Thus in the days before regulation the Canadian pacific used to charge much higher rates to interior British Columbia points than to the coast points. This caused a great deal of discontent, and places like Kamloops undoubtedly suffered by paying higher rates than charged on the longer haul to Vancouver. The coming of a regulative tribunal together with the increased prosperity of the Canadian Pacific Railway resulted in the removal of most of these grievances. At the present time the rule that interior places should be charged at least no more than coast points is fairly strictly adhered to.

But the building of the Panama Canal ~~xxyxxxx~~ has brought a new factor into the situation which may in the end be a most disturbing one. It is now possible to have a much more efficient competition in the inter-coastal business. The United States' Pacific railways are already feeling this competition. The transcontinental rate problem has always been a serious one in the United States. Formerly places in what is known as the Inter-mountain territory were charged much higher rates than the Pacific coast terminals. A long series of cases brought about chiefly by the complaints of the cities of Spokane and Reno resulted in very much improved conditions. Now, the Transcontinental railways, none of which go east of Chicago, St. Louis or New Orleans, are seeing more and more of the Pacific coast market being supplied by Atlantic coast cities. To maintain the Middle West cities in competition for this business lower rates are necessary. And if ~~this takes place~~ lower rates are enforced the railways maintain that it would be quite impossible to lower the rates for the Inter-mountain territory. To do so would mean simply bankruptcy. As yet, the Canadian transcontinental traffic via the water route is negligible, but it is probable that as the advantages of the Panama Canal come to be better realized that this business will grow. And if the railways are compelled to lower their transcontinental rates to meet this competition, they may not find it possible to lower their rates to interior points as well. There is a possibility of a difficult transcontinental rate problem ahead similar to that of the United States.

Before the days of the Panama Canal the Elder, Dempster Steamship Company used to operate a line of freight steamers from Montreal in the summer and Halifax and St. John in the winter to Puerto. Here the cargoes were loaded on the Tehuantepec National Railway for the short haul to Salina Cruz. At this place a connection was made with the Canadian Mexican Steamship Lines and the cargoes carried up to British Columbia. The Elder, Dempster Company complained that the railways would not quote export rates into Montreal, Halifax, and St. John on this business, and instead charged the higher domestic rates. The matter was taken before the Railway Board, which decided that as the commodities were destined for Canadian places they could not be considered as exports and also that the railways could hardly be compelled to encourage competition with themselves. The Board therefore refused to order export rates to be put in force.[1] But this discouragement to the ~~xxxxx~~ inter-coastal trade by water is not serious.

Formerly the Canadian transcontinental rates used to be based on the Chicago rate. At present the Toronto-Montreal group, a blanket rate territory including all south-western Ontario, serves as the base. It is subject to the water competition via Montreal. Places east of Montreal are placed in various rate groups each of which is charged a fixed differential over the Toronto-Montreal rate -- the differentials being highest for the greatest distances from Montreal.

On the pacific end of the line some seventy places are listed as terminal points and all get the same transcontinental rates. Seventeen more places get rates made up of the transcontinental rates to the terminal together with differentials of five cents per hundred pounds on car-load business and of ten cents for less-than-car-load business. One place gets differentials of seven and a half cents and fifteen cents respectively.

Nanaimo has had the chief cause to complain of this arrangement. It was formerly listed as a terminal point, but in 1915 the railways decided that water competition had practically ceased there and transferred it to the list of places paying the five and ten cent differentials. This put Nanaimo rates on the same basis as the other Esquimault and

[1] 10 C.R.C. 334 (1910).

Nanaimo Railway points with the exception of Victoria and Esquimault. Nanaimo was seriously hurt and protested to the Railway Board. It was found that the Canadian Pacific had formerly taken the traffic for Nanaimo to Ladysmith by car-ferry and thence to Nanaimo by rail, but not owning the transfer facilities at Ladysmith this traffic was now routed via Esquimault. At the same time the Board found that it was merely a case of water competition, and as these competitive rates are necessarily below what would otherwise be reasonable, the railways cannot be forced to meet this competition.[1]

The transcontinental traffic is principally a westward movement, for there is comparatively little traffic moving in the opposite direction.

Distributive rates are the sources of never ending troubles. If a railway made all its shipments direct from the source of production to the point of consumption, its business would consists chiefly of handling a great many small shipments. On its long hauls it would have to stop at nearly every small station to unload a shipment. To avoid this waste the railways select certain places and offer them more favourable rates on car-load quantities than the surrounding places. Thus the railway will be able to ship

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[1] 20 C. R. C. 224 (1916).

in car-load lots directly to the favoured point, where the shipment will be broken up into small lots and shipped to the surrounding consuming points. In this way the less-than-car-load movements are comparatively short.

The difficulties connected with these rates are that the distributing centres have to be more or less arbitrarily selected; and there are continual protests from the less favoured places which claim that they are suitable distributing centres and should be allowed distributive rates, or else they complain that their tributary territory is not large enough. In Western Canada Winnipeg was the first distributing centre. Car-load shipments arrived here, were broken up, and shipped to the various places throughout all Western Canada. As a result the Winnipeg jobbing business flourished with the growth of the West, and the city did its best to prevent other places receiving the same benefits. The Regina Board of Trade Case (1912) decided definitely that Winnipeg was not entitled to retain this monopoly of the business, and cities like Regina, Calgary, Edmonton, and Saskatoon ought to have the same advantages. A number of other distributing points have since grown up, but Winnipeg continues to be of most importance. The first class rates to Prairie distributing points cannot be less than eighty-five per cent of the standard first class rate. This was fixed by the Western Rates Case. In British Columbia the distributing points (with the exception of Vancouver and

New Westminster) cannot have rates less than the Pacific Standard minus fifteen per cent of the Prairie Standard. The Prairie distributing points get uniform rates fifteen per cent below standard, but the percentages vary in British Columbia.

The mixing privilege question is bound up with the distribution problem. In Eastern Canada if a shipper cannot fill up a car with one commodity, he is allowed the benefit of car-load rates if he can complete the load with other commodities -- the whole going as one shipment. He pays the car-load class rate of the highest classed commodity in the load. West of Port Arthur the privilege is more limited. Commodities of different sorts are allowed to make up a car-load only if they all come under a distinctive heading such as groceries, hardware, agricultural implements, etc. As this works out in the West, places large enough to take a car-load of various different goods but which are not large enough to take a car-load of any particular kind of goods, do not get the benefit of a direct shipment. Instead, the shipments go to the nearest distributing centre in car-loads and reaches the particular place in less-than-car-load lots. There have, of course, been several attempts to get the "open" system of mixing put in force in Western Canada; but the already favoured places have strenuously resisted this, arguing that such a system would work a serious injury to the Western wholesale centres and at the same transfer the business to the jobbers and brokers of Eastern centres such as Toronto, Hamilton, and Montreal. These places would be able to ship directly to several places in the West, instead of through the Western distributing centres. The whole problem is one of balancing the distributive areas. Each jobbing centre wishes to have as large a territory as possible tributary to it, and at the same time opposes the attempts of other centres to extend their tributary areas. The railways are in a difficult position in trying to satisfy the claims of all the would-be distributing centres.

It was noted before[1] that Vancouver had protested to the Railway Board because it was actually possible for Winnipeg wholesalers to ship into Eastern British Columbia. In the end Winnipeg had to give up this territory. At present Kamloops, Revelstoke, Vernon, Rossland, Nelson, Cranbrook, and Fernie all act as distributing centres in the interior of British Columbia, and they oppose any attempt of Vancouver to increase its tributary territory. Vancouver as a manufacturing and importing centre for articles of consumption on the Prairies, would make that city a distributing centre for the Prairies of a kind similar to ~~that of~~ the Eastern cities which at present ship to the

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1 p. 80.

Prairies. Vancouver would not ship directly to the consuming centres but to the nearest jobbing centre.

The passenger business is of much less importance to the railways than the freight business. The latter earns about seventy per cent of the total revenue, and the former less than thirty. At the same time passenger fares are more easily fixed as there are fewer things to be taken into consideration. Under the Railway Act passenger tariffs must be either standard or special. There could be no competitive tariffs, for passengers could not be expected to pay more for riding a part of a total distance than for the whole. Competition plays a large part in determining the fares, but it is not subject to so many complications as is freight competition.

The standard tariff structure for passenger fares follows somewhat the same plan as the freight tariff structure, though there is not the same spread between the Eastern and Western fares. Standard fares of 3, 3 1/3, and 3½c per mile have been in force in various parts of the country. By 1914 there was a uniform 3¢ standard ~~xxxx~~ fare east of Calgary. West of Calgary the fare was 4¢ per mile. Up to 1901 it had been 5¢. In the Western Rates Case British Columbia asked for a reduction but the Board decided that in view of the higher costs of operation through the mountains this would not be granted.[1] ~~During the several~~ The general rate increases allowed during the Great War did not apply in British Columbia. Up to September 13, 1920, the passenger fares east of McLeod, Calgary and Thornton were subject to a maximum of 3.45¢ per mile, while west of these places the fare was still 4¢. The twenty per cent increase which went into effect on that day was subject to a limit of four cents, so that the standard fares became practically equal. But on January 1, 1921, the eastern rates were lowered to 3.795¢, and on July 1 of the same year were lowered again to 3.45¢. This is the extent of the discrimination at present so far as the standard fares go. The majority of the people travel on special fares, but as in the case of freight the special fares in British Columbia are generally higher ~~about the~~ to about the same extent that the standard fares are. During the summer season low tourist fares are put in effect, and these are the means of attracting many visitors to British Columbia. Busied with other things, British Columbia has not yet made a determined effort to have the discriminations in passenger fares removed although planning to do so in the future.

The express companies have also seen fit to charge

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[1] 17 C. R. C. 123.

higher rates in British Columbia than elsewhere because of higher operating costs in the mountains. There are four standard mileage tariffs. Tariff A applies to all points east of and including Windsor and Sudbury with the exception of the Timiskaming and Northern Ontario Railway points. Tariff B extends westward to Crow's Nest, Canmore and Thornton in Alberta. Tariff C applies to the lines west of these places as far as the Pacific coast, and also to Vancouver Island transfer points. Tariff D is used on Vancouver Island. At one time these tariffs were such that the 900-1000 mile group in A territory was charged $3.00 per hundred pounds, B was charged $5.00, and C was charged $6.00. Later the latter two were reduced to $4.00 and $4.75 respectively. Tariff D is much like Tariff B but covers only short distances.

In British Columbia fresh fruit and fish are carried by express, but on the whole the express business is concerned but little with the regular movements in the course of trade. Because of this express rates, like passenger fares, are not often the subject of complaints. But with the settlement of some of the more pressing freight rate problems, there will in all probability arise a persistent demand for equalized freight rates.

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