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THE RAILWAY ACT OF CANADA.*

I want to speak a little tonight about the Railway Act of Canada and some of the things in connection with it, and to give to you a little bit of the history leading up to the present Railway Act. I perhaps might call what I have to say a study in the quantitative anatomy of the Railway Act. I am not going to speak of the quality of the work of the Board, for very obvious reasons.

Just a short time ago the one hundredth anniversary of the opening of the Baltimore & Ohio Railroad was celebrated. It is about ninety-two years now since the first railway was built in Canada, a little railroad running from Laprairie to St. Johns, a sort of portage road you might call it, to connect up with the waterways leading down to Lake Champlain. For a good many years before the railroad was started, back as far as 1818, discussions were going on in the City of Montreal in regard to the possibilities of railroad construction, and there were some very novel suggestions advanced. It was recognized that the inclement winter weather of Canada—and we have to admit that we have some inclement weather at times—of course, you are in the tropical zone here—might cause some difficulties. It was suggested that those building through the forest sections might cut the stumps of trees leaving about six feet in height and place the rails on top of the stumps so as to be sure to be out of the snow drifts. There was another

* EDITOR'S NOTE.—This is the text of an address recently delivered before the Toronto Lawyer's Club by S. J. McLean, LL.B., Ph. D., Assistant Chief Commissioner of the Board of Railway Commissioners for Canada. Dr. McLean prior to his appointment to the Board had for some time held the position of Professor of Economics and Sociology in the University of Arkansas and later on became Associate Professor of Political Economy and Transportation in the University of Toronto. He has contributed many articles on railway and business economics to periodical literature.

suggestion, which I offered in Winnipeg some time ago to an operating friend of mine, as being of value, that the roads might be built in the direction of the prevailing winds so as not to have any trouble from drifting. I am not sure that that suggestion has been seriously taken up.

In the discussions which took place in Canada in the earlier period I am speaking of, some very interesting things came up. There was a meeting in a coffee house in Montreal leading up to the building of the road from Laprairie to St. Johns, and one thing that those present were very much worried over was what would become of the poor carters who would be put out of service by the railroad being constructed. The same thing came up in England, and within the last twenty-five years the question has been brought to our attention, What shall become of the poor railroads, because the motor bus and the motor cars are going to put them out of business. History has a way of repeating itself.

In 1851 when railroad construction began to attract attention more seriously in Canada, the Railway Clauses Consolidation Act was passed. That followed the English Clauses Consolidation Act of 1845, and the principles established in England in regard to equality of rates under the same circumstances were embodied in the legislation of 1851. The English Act of 1854, which stressed the same idea, also had a bearing upon the legislation in Canada. There was a time in Canada when people thought more of the construction of railroads than anything else, and undoubtedly that was the cause of much duplication. As a matter of fact, I have a dim recollection of reading that there was one election carried on in Canada on the basis of railways. Sir Allan McNab said "Railways are my policy," and there have been similar ideas since.

Almost as soon as the Grand Trunk and the Great Western Railways were constructed, questions arose in connection with rates. There were complaints that rates from American points through Canada were on a lower basis than those being charged on Canadian goods. In the early seventies there were discussions in Parliament, and there were propositions to the effect that equal mileage rates should be put into force, that is to say, if you get a rate per mile then the distance of 100 miles would be just one-half of the charge for 200 miles.

In the early eighties the matter of having more regulative control over railways, especially in regard to rates, was brought up in

Parliament by the late Hon. D'Alton McCarthy. He attracted attention especially to the English Railway and Canal Commission of 1873, and the outcome of it was that a Royal Commission was appointed in 1886 to report upon the question of amendments to the Railway Act. Just about that time interesting changes were taking place both in England and the United States. In 1887 the Interstate Commerce Act was passed and the Interstate Commerce Commission was organized to deal with the problem of rates on interstate traffic, which amounted to about fifteen or twenty per cent. of the total traffic, the bulk of the traffic as you will see falling within the scope of the States. This was subject in various cases to supervision by State Commissions.

In 1888 the existing English Railway Commission was given extended powers. The Royal Commission of 1886, which reported, said that the legislation in the United States was still in the stages of beginning, that the legislation in England was very recent, and there was the opinion expressed that there was no assurance of such identity of conditions as between Canada and these other countries as would justify identical legislation being adopted in Canada. So the suggestion was made that the powers of the Railway Committee of the Privy Council should be extended, and that was embodied in the legislation of 1888.

There was a special Commission organized in 1894, which advised that changes in rates were not necessary. A discussion took place, and then there came about, in 1899, a more active interest in the matter. I had the honour of doing some work on the legislation at that time, reporting on it to the late Honourable A. G. Blair, who was then Minister of Railways, and that led to further investigation and the amending of the legislation in 1903, which provided for the organization of the Board of Railway Commissioners for Canada. The Railway Committee of the Privy Council had done, in some ways, quite good work, but it was handicapped by its organization. The organization was a changing one, depending upon the exigencies of politics. And then it was pointed out, in 1886, that one difficulty in the way was that any person who had a grievance had either to come to Ottawa or be represented there by Counsel. It was suggested that special officials should be appointed by the Railway Committee of the Privy Council to go out and take evidence in the different localities and report to the Railway Committee. However, at that time it was not deemed advisable to do that.

If I might just strike a personal note for a moment, just as bearing on something I wish to develop, in the nearly twenty years I have been on the Railway Commission I have, in connection with Railway Commission work, travelled about 236,000 miles back and forth through Canada. It certainly has given ample opportunity of seeing conditions in Canada, and of learning something about Canada.

The Board of Railway Commissioners as organized in the first instance had three members. There was a Chief Commissioner, a Deputy Chief Commissioner, and a Commissioner. The Chief Commissioner was required—and the qualification is still the same—to be either a Judge of a Superior Court of Canada or of any Province of Canada, or one who had been a barrister or advocate of at least ten years' standing at the Bar of any such Province. In 1908 the legislation was amended. The qualification for Chief Commissioner remained the same. Provision was made for an Assistant Chief Commissioner, and the membership was increased to six. The Assistant Chief Commissioner was required to have the same qualifications as the Chief Commissioner.

The term of office of a Commissioner is ten years, on good behaviour and subject to removal on address. Within the time so limited, the tenure is the same as that of the Judges. There is no retiring allowance. A Commissioner may be re-appointed subject to an age limit of seventy-five years.

Provision is made for the membership being divided into sections. This is not a rigid division but an arrangement of convenience from time to time. One section may hear cases and two members thereof are a quorum. Both sections of the Board may be functioning at the same time. The Chief Commissioner presides or, in his absence, the Assistant Chief Commissioner. In the absence or inability to act of the Chief Commissioner and the Assistant Chief Commissioner, the Deputy Chief Commissioner exercises the powers of the Chief Commissioner. On any question which, in the opinion of the Commissioners is a question of law, the opinion of the Chief Commissioner, when presiding, prevails. In his absence, the opinion of the Assistant Chief Commissioner, under such circumstances, prevails.

The Board is a Court of Record. As bearing on its position in regard to the Courts of the Provinces, I want to just read one short extract from a decision given by the late Chief Commissioner Kill-

am in the case of *Duthie* v. *The Grand Trunk*, which was given very early in the history of the Board. It is reported in 4 Canadian Railway Cases, 304, at p. 315. He said:

" . . . the business of the Board is to enforce the railway legislation of the Dominion Parliament, and for that purpose to order the performance of some acts and to prohibit others. It is not created to supplant or even to supplement the Provincial courts in the exercise of their ordinary jurisdiction, but to exercise an entirely different jurisdiction, although perhaps occasionally overlapping that of the Provincial Courts."

So the Board is a statutory tribunal, with functions defined by the Railway Act.

One change has been made. A section, which is No. 35 of the Railway Act, gives the Board power to enforce certain types of agreements which are concerned primarily with the doing of something concerned with the physical construction, or reconstruction and maintenance, of railways. The Board is given power to make such Order as seems reasonable and proper under the circumstances. To illustrate what that may mean: Some years ago a case came up in the City of Montreal. An agreement had been made between a municipality not then included in the City of Montreal, and the Grand Trunk Railway, in regard to the running of specified trains. Then came the organization of the Montreal Tramways. Later, with various adjustments of rates, the rates on the tramway were increased, under local authority, leaving the rates of the Grand Trunk lower. An application was made by the City of Montreal for specific performance, and the finding of the Board was that considering all the circumstances it was not reasonable and proper for an Order to issue that the service agreement should be enforced by the Board. The parties were left to their remedy at law.[1]

But aside from that, the functions of the Board might be spoken of as being, in a broad way, connected with matters of railway law. I spoke a moment ago about the Board being a Court of Record. In a case, which is in Appeal Cases 1920, reference was made by one of the Lords of the Privy Council to the effect that while the Board has administrative functions it is also a Court of Record, and there an appeal by special leave was allowed to the Privy Council.[2]

So the Board is one of the Federal Courts. It has a wide administrative jurisdiction. As I said, the powers which the Rail-

[1] *City of Montreal* v. *Grand Trunk Railway Co.*, 25 Canadian Railway Cases, 448, at p. 454.

[2] *Toronto Railway Co.* v. *Corporation of the City of Toronto*, [1920] A.C. 426, at p. 434, per Viscount Finlay.

way Committee of the Privy Council had possessed were transferred to the Board of Railway Commissioners for Canada, and additional powers, which I wish to comment on a little further in a moment, were given to it . Perhaps it may be of interest to speak of its relation to the Courts.

The decision of the Board on a question of fact is final. There may be an appeal to the Supreme Court on jurisdiction, either by the permission of the Board or by sanction given by a Judge of the Supreme Court in Chambers Then there may be, also with the permission of the Board, an appeal on a question of law to the Supreme Court. Then there is a further phase of appeal which deserves some mention. In the earlier legislation of Canada, both in general and in special Acts, the provision was made that rates might be reduced so as not to produce less than a certain figure. For example, the Act of 1879 had a provision that rates might be reduced by Parliament so as to produce not less than 15 per cent. on the investment. That is of interest, because when the Canadian Pacific Railway was chartered in 1881, the 15 per cent. provision was in the legislation, but in the C. P. R. charter that was reduced to 10 per cent. Then when the Act of 1888 was passed the provision about the 15 per cent. was striken out of the Railway Act, but the C. P. R. Act remained a special Act with the provision for 10 per cent. referred to.

When the Board was organized, the question arose in a very short time in regard to what control, if any, was possessed by the Board over the rates of the C. P. R. It was admitted by the C. P. R. that there was power of control in regard to discrimination, but it was contended that in the section covered by the C. P. R. charter, these rates being statutory, the Board had no power to interfere with them. Steps were taken to have the matter adjudicated upon. A case was prepared for the Supreme Court, but in 1909 the C. P. R. said, in substance, without prejudice to its charter rights it was not unwilling to have the rates subject to the control of the Board.

Now, going back to connect on with that, I have spoken of these powers that Parliament possessed, and the powers being transferred to the Governor-in-Council, which were in turn amplified and handed on to the Board. The Governor-in-Council being an organization which is, in effect, a Committee of Cabinet, was, of course, responsible to Parliament, and so when the powers I have spoken of were transferred to the Board provision was made that the Gov-

ernor-in-Council may on petition, or of his own motion, vary or rescind any Order or decision of the Board. In general, when questions of jurisdiction have arisen they have been referred to the Supreme Court.

The Board has given decisions in nearly 9,000 formal hearings. There have been some 91 appeals—a little more than one per cent. Some 51 of these have been to the Supreme Court and 40 to the Governor-in-Council. To make the record more complete, I might add that one further appeal took place this year, so there have been some 92 appeals divided between the Supreme Court and the Governor-in-Council in the way I have said. And we are not displeased with the fact that we have been overruled only in about one-seventh of the appeals, about one-seventh of one per cent. of the cases formally adjudicated upon. I have referred to the administrative side of the Board's work. Last year members of the Board's staff and the members of the Board travelled 460,000 miles back and forth through Canada. We have in addition to our offices in Ottawa offices in Toronto, in Winnipeg and in Calgary. We have inspecting officials in Toronto, and we have inspecting officials in our Western offices as well as an engineering representative in each of the offices in Winnipeg and in Calgary. Of course, the reason for that is patent. By dividing up the territory we get very much more prompt action.

We have had about 85,000 applications since the Board began its work nearly 25 years ago. However, not more than 15 to 20 per cent. of those cases have come to formal hearings. From 80 to 85 per cent., and some years more, of the cases, have been heard informally. Let me give an example or two of what is done. One of the strongest State Commissions in the United States, is that of Wisconsin. If it has before it for example the installation of bells and wig-wags at a crossing, or the installation of flashlights it will have a formal hearing, and the matter goes through the whole procedure of a formal adjudication. In cases like that, our Engineer goes out, inspects the crossing, makes a recommendation as to form of protection, a copy of his report goes to the parties asking them to show cause why that form of protection should not be adopted, and usually with an indication of some basis of apportionment. And so cases that in Wisconsin go to formal adjudication are in many cases with us decided informally. It is an advantage to those interested, because there are officials travelling from

place to place, and they are able to come right close to the seat of the trouble.

Our informal procedure then has been of considerable importance, and I think can be said to have been of satisfaction to a great many people.

A few words about some of the functions of the Board in another way might be of interest. As you know, we are operating under the general Railway Act. In 1851, as I have said, the Railway Clauses Consolidation Act was enacted here. In the early fifties the various States of the Union to the South took up another method, that of general Railway Acts, that is to say, legislation much like the Companies Act, providing that when a certain number of men comply with certain requirements, then sanction might be given by the Secretary of State or some other official to obtain a charter. So the bulk of the railways of the United States have been chartered in the way I have been speaking of. There were some exceptions. Some specific roads which were chartered through what was then unorganized territory, were chartered by Congress. In Canada there has been some little discussion about legislation of that kind. There was in the fifties for some time on the Statute Books of Canada such a general Railway Act, and the Buffalo & Lake Huron afterwards incorporated into the Grand Trunk System and now part of the Canadian National Railways, was incorporated under that special legislation. That is the only case I know of.

We have the general Railway Act. Then the railway has to obtain its charter under a Special Act. Then when it comes to the question of its location, plans have got to be filed with the Board showing profiles and books of reference. If there is a question of a highway crossing plans have got to be filed showing the type of highway crossing proposed. We have certain standard requirements in regard to crossings, and so on. If there is anything exceptional about the condition, a special investigation is made. A copy of the plan in regard to the highway crossing is sent to the municipality, and it may put forward its position in regard to the matter, and thereafter it is dealt with on written submissions, and if need be comes to formal hearing. Take in connection with this the question of the location of stations. When a proposition is made to have a station located at a particular point that is investigated by our officials, and it may be that they take the position that the proximity of the station to a crossing will create a dangerous situation, and that the station should be located further back. An

opportunity is given to the municipality to file its views. If the municipality agrees then a consent Order goes. If there is exception taken that is considered. And here again, if written submissions will not settle the matter then it comes to formal adjudication.

The question of accidents is another matter in which a similar procedure is used. As you know, there exists the Railway Grade Crossing Fund, a fund established by the Dominion Government, from which contributions limited to forty per cent., and not to exceed $25,000 on any one piece of work, of cost of installation may be made from the Fund. If an accident arises—and unfortunately they do arise—an examination is made by our officials. Reports are made, and, in many cases, protective devices are installed through the informal procedure of a show cause. Where the parties cannot agree then there is a hearing.

The problem of accidents has become of increasing importance in recent years, and as I do not drive a motor car I am free to say I think a good many of the accidents are caused by motor cars. During 1927, 74 accidents took place from motor cars running into moving trains. In one case in Ontario the 16th car of a moving freight train was struck by a motor car. There may be special reasons, but the fact that there were 74 accidents of that nature is very significant. In your City of Toronto in the last year there were about 100 gates broken by motor cars.

Now, we try by having our officials get to the seat of the accident to afford the people concerned every opportunity of putting their position forward. And in addition, if for example any of our inspectors reports a situation where there may be an obstruction of view, by removing trees, or banks of earth, and so on, that question is taken up.

We have Departments of Engineering and Operating. Another part of our work which attracts a good deal of attention is that part which has to do with rates. During 1927 over 86,000 tariffs were filed with the Board. When the Board of Railway Commissioners was organized it was given power under the amended Railway Act so that it had final power in regard to rates coming within its jurisdiction, subject to appeal to the Governor-in-Council. The Interstate Commerce Commission, which was organized in 1887, did not have power of that kind and did not have it until 1906. The general scheme of the Railway Act, however, was to give wide powers. Of course, we have to act within the four corners of the Railway

Act. As illustrating what I mean, some years ago when the Grand Trunk Pacific was in process of construction the tracks of the line were being laid on Hardisty Street in Fort William. There had been no agreement made by the City in regard to closing the street, and so the railway located on the street was under no obligation to meet any claims for damages which might be raised by adjoining landowners. We made it a condition of an Order that the railway should be responsible in damages to the adjoining landowners, but when it went to the Privy Council the Lords of the Privy Council pointed out that this was not a condition which was within the four corners of the Railway Act. We bowed gracefully to their ruling, but the Railway Act has since been amended to cover a situation like that.[3] So while we have wide powers we have got to keep within the Railway Act. Sometimes people come forward with a sort of blank cheque theory of the Railway Act, the idea being that we can fill anything we like in the body of the provisions about the Railway Act. Sometimes we get applications for which we cannot find authority. I remember some years ago in connection with the construction of a railway, there had been a question raised in regard to the location of a station, and we were very glad to get things straightened out. And then a good lady who had been very active in the matter wrote to us asking if we could get a position for her son on the railway. We could not find a section to cover that.

In regard to rates. First of all, we come to the question of standard or maximum rates. Maximum rates have to be submitted to the Board for their sanction, and thereafter they are published in the Canada Gazette, and those are the maxima which cannot be exceeded by the railway. Then the rates are arranged in classes. Following the classification, there are ten classes of rates. The classification is based, roughly, on value, bulk, and so on. Then under the maximum rates special rates may be filed by the railways. The great bulk of the commodities moving move on rates lower than the maximum. These rates do not require, under the Act, to be approved by the Board, but there is provision that three days' notice shall be given in the case of reduction of rates, and thirty days' notice in the case of increase of rates. And then there is also a provision that rates may be put in to meet competitive conditions, subject to provisions as to notice.

[3] *Grand Trunk Pacific Ry. Co.* v. *Fort William Landowners and Fort William Land Investment Co. et al.*, 13 Can. Railway Cas. 187; [1912] A.C. 224.

The rate sections of the Railway Act may deal with complaints of varying size. You may have quite a small matter, or you may have a rate case, such as the recent General Rate Investigation, 33 Can. Ry. Cas., in which 113 days were taken up at hearings in various sections of the country. You may have rate cases involving a few thousand dollars, or you may have rate cases involving some millions.

I spoke a moment ago of classification. That relates itself to what I said earlier about attempting to settle things by informal procedure. Classification 17, which is the classification we are operating on now, was submitted to committees of the shippers and the railways in different sections of Canada. The rules and regulations, and the ratings and classifications were all discussed. I forgot to state that when we have an application for a change in classification, notice has to be sent by the railways to quite an extensive list of trade organizations, who are given an opportunity to file with us the exceptions, if any, they take to the classification proposed. In the case I am of speaking of—Classification 17—the frank and free round table discussion which took place, resulted in a minimum of outstanding unsettled things being submitted to us.

The work of the Board in some cases embraces matters which are purely matters of law. That is of special interest in connection with the Court functions of the Board. To give a couple of examples that I have in mind, I read an extract from the judgment of the late Chief Commissioner Killam in *Duthie* v. *the Grand Trunk*. The late Chief Commissioner Killam was a thorough lawyer, an indefatigable worker, and one who laid deep the foundations of many of the legal principles which have since been followed. In *Duthie* v. *the Grand Trunk*, the legal questions involved were gone into very thoroughly. He had also before him the famous penny a mile case. You will remember that under the charter of the Grand Trunk the railway was obligated to make provision for the carriage of third class passengers between Montreal and Toronto at a penny a mile. When the matter was brought up by one of your fellow citizens, Mr. W. F. MacLean, formerly Member of Parliament, it was claimed that the obligation had passed by obsolescence. However, the matter was gone into very fully by the late Chief Commissioner Killam, and the support which was given to his decision in the Supreme Court and the Privy Council was indicative of how thorough the opinion was.[4]

[4] *Grand Trunk Ry.* v. *Robertson* [1909] A.C. 325; 9 Can. Railway Cas. 149.

Another case involving a question of law might be referred to. Back in 1909 a question arose in regard to the rate on crude oil from Stoy, Illinois, to Toronto. It was known as the Stoy case. Shipments were being made to the British American Oil Company. Under the Railway Act on shipments to and from Canada, the Official Classification which is one of the American classifications, may with the sanction of the Board be used in the territory where that Official Classification is operative and in adjacent Canadian territory. The reason for that is, that if you had two classifications working affecting the through rate there undoubtedly would be a good deal of conflict. The Official Classification was allowed to operate. Oil was in the fifth class of the Official Classification, and the rate on fifth class at that time was 20 cents. The classification —Canadian, or Official, or Western—has to be approved by the Board. In the United States the classification did not then have to be approved by the Interstate Commerce Commission. So an exception was filed by the American railway in conjunction with the Canadian railways. The effect of that was, instead of a through rate of 20 cents, by making the combination on Detroit it would give a very much higher rate. We took the position that the exception not having been approved by the Board it had no validity in regard to the change of the rate, and we ruled that 20 cents was the rate. It depended entirely on the legal construction. That was of interest in one or two ways. The Transportation Act of the United States, the legislation under which the Interstate Commerce Commission works, has power, when rates are found to be unreasonable, to direct a refund of the excess. No such provision is contained in the Canadian legislation. There was some question as to whether the Board had power to pass upon the legality or otherwise of a rate which had been filed in compliance with the provisions of the Railway Act, and we held in this case that for the reason I have given, that is, the inapplicability of the exception, the legal rate was 20 cents. We could not under our legislation direct a refund of the difference to the parties aggrieved—they were left to their remedy at law. The matter went to the Supreme Court, and from there to the Privy Council. We were supported throughout. The member of the Bar who was conducting that case for the British American Oil Company is a man you all know very well, Mr. W. N. Tilley, K.C.[5]

[5] *British American Oil Co.* v. *Grand Trunk Ry. Co.*, 9 Can. Railway Cas. 178; *British American Oil Co.* v. *Canadian Pacific Ry. Co.*, 12 Can. Railway Cas. 327.

Other cases arise that may be matters of mixed law and fact, questions of discrimination. The general provision laid down is that under similar circumstances there shall not be unjust discrimination or undue preference. The similarity of circumstances, that is a question which involves a set of facts. There are certain questions of law coming up in regard to competitive rates. Then again you may have cases which are entirely dealing with facts. Questions of protection are usually matters of fact. Or we may have cases dealing with questions of mixed law and fact.

The Board has been working for some 25 years now, and there is an almost overpowering willingness of Parliament to give it more jurisdiction. We started out with the Railway Act, and there has been added to that provisions in regard to Express, Telephone, Pullman rates, Parlor Car rates, and Telegraph. In a general way, the jurisdiction given there is not as wide as the jurisdiction given in regard to freight and passenger rates. In the case of freight and passenger rates we have jurisdiction over matters of facilities. The railway is obligated to render proper facilities for the receiving, forwarding and delivering of goods or passengers according to its powers, but in connection with these adjuncts I have mentioned, Express, Telephone and so on, the jurisdiction is not so wide. And in some cases the jurisdiction has its own difficulties. When you come across such a phrase as this, "The provisions of the Railway Act in so far as applicable and not inconsistent with the present Act shall apply," what is the answer? It looks as if you were putting the regulative tribunal very close to law-making functions.

In connection with the Interstate Commerce Commission there has developed quite a technical bar. I thought a good many years ago that something similar would develop here. As you know, we have much more elasticity in our legal system than they have in the United States, and minor errors, minor omissions which have been looked upon as not being very serious over here have been looked upon as being very serious over there. On account of the body of work which has developed, the different Commissioners of the Interstate Commerce Commission have attached to them attorney examiners. In some cases the attorney examiner goes out and takes the evidence, then he makes his report, a copy of which goes to the Commission. A copy is sent to the parties. They are asked to file their exceptions, if any, in the time specified, and thereafter the matter is dealt with, on the report, by the Commis-

sion. They may agree or they may disagree. In some special cases the Interstate Commerce Commission will have a Commissioner assigned to sit with the examiner, but in a good many cases the work is done through examiners. The result has been that a good many of the examiners in time leave the Commission to go into special practice before the Interstate Commerce Commission and other governing bodies. We have not had an organization of that kind here, and even from the outset, on account of the more elastic procedure which the law has permitted, we have given facility to the different individuals to present their own cases as they see fit. In many of the traffic cases lawyers do not appear at all. Naturally, of course, you will think that that is a defect in our procedure. In such cases the traffic representatives of the railways and the different shipping and industrial organizations appear, and while the matter is not discussed with the same legal precision as we would have if lawyers were before us, and while perhaps a body blow is sometimes given to the rules of evidence, yet the traffic men seem to think it works out fairly well.

The work of the Commission shows the effect of the expanding of our country. Canada is a long narrow ribbon of settlement about 4,000 miles long and stretching not more than, at the deepest point, 300 miles north of the International boundary. Special questions of rates have come up in that connection. You will remember the discussion which took place in regard to the Crow's Nest Pass legislation, and the comparatively recent amendment by Parliament which made the Crow's Nest Rates applicable eastbound to the Head of the Lakes, not only in regard to the C. P. R. which was a party to the original agreement, but also to the Canadian National Railways. Then again we have had quite recently the very difficult problems brought up by the Report of the Duncan Commission down in the Maritime Provinces, providing for a reduction of rates there. There is a 20 per cent. reduction of rates within the territory mentioned in the report, in the case of the Canadian National Railways System. The eastern section of the Canadian National Railways System is separate now, for accounting purposes, and the deficit on that operation is being borne out of general funds. Then there is a provision that the lines which are competitive with the Canadian National Railways in this territory may, if they see fit, put in similar reductions, and if they do put in similar reductions the burden is with us to have such reports as will enable us to report what the difference is between the takings on the reduced

rates and what they would have been on the rates on the higher basis, and provision is made for recouping that difference by Parliament.

Both of these Acts I have spoken of are manifestly Special Acts, and with us as in other bodies of law the maxim *generalia specialibus non derogant* applies.

The work of the Board, as I have said, brings us in contact with varying problems. We have forced on us the significance of geography. Two of the most important factors in connection with the rate structure, and the development of Canada, will be found in what might be called the "Traffic Bridges"—and when I say traffic bridge I mean the section which is producing but little traffic—in Northern New Brunswick, and the traffic bridge around Lake Superior. Those are two of the difficulties in the way of Canadian integrated development.

There is no country in the world, I think, where transportation has a greater significance than Canada. A study of the transportation system at any one time is a study of a cross-section of Canadian development, and if the Board of Railway Commissioners, in attempting to work out the powers given it under the Railway Act, has been able to do something to help in the development of this Dominion then my colleagues and I are very glad.