

provided that a change of rates has been advertised. But important rate adjustments usually come to the notice of the Commission, for the changed rate alters the extent of the territory in which a shipper can compete and on this account he is apt to appeal the case to the Commission. It is a knotty problem to mark the boundaries of competitive areas—to decide whether Nova Scotian manufacturers should be given rates which would allow them to compete west of Montreal, or again, whether high construction and operation costs in British Columbia should enforce a rate which would prevent her goods from moving far into the prairies. By an amendment to the Railway Act, the regulation of telephone, telegraph, and express rates was given to the Commission, but with narrower powers than were given to it in dealing with railways. By the Transport Act, the Board now has the power also to issue licences to persons or concerns entitled to engage in transport by air on the air routes declared to be under its jurisdiction by the Governor in Council. In the near future the power to issue licences to ships will also be exercised by the Board when the part of the Transport Act dealing with transport by water comes into effect by proclamation of the Governor in Council.*

The procedure of the Board is informal, as suits the nature of its work, for experience has shown that hearings in strict legal form lead the parties to the argument to take uncompromising attitudes. If possible, matters are settled by recommendations to the railway company or the shipper; thus, during 1937, 94.96 p.c. of the applications to the Board were settled without formal hearing. The Railway Committee had kept its station at Ottawa, giving only formal hearings, and so the grievances of those who could not afford to appear in person or pay counsel went unredressed. The itineraries of the Transport Commission are arranged so that evidence may be taken at the least expense to those giving it.

The Chief or Assistant Chief Commissioner, depending upon which one is presiding, gives final judgment on points of law when, in the opinion of the Commissioners, the question is one of law. On questions of fact the findings of the Board are final and are not qualified by previous judgments of any other court. Questions of law and jurisdiction are differentiated. In the first case, the Board may, if it wishes, allow an appeal to the Supreme Court; in the second, the applicant needs no permission to present his appeal.

The Railway Committee of the Privy Council, being a Committee of the Cabinet, was responsible to Parliament. When the powers of the Committee were made over to the Railway Commission (now the Board of Transport Commissioners) the responsibility was retained, but necessarily by a different means. There is now provision for an appeal from any decision to the Governor General in Council, who may also of his own motion rescind or vary the action of the Board, but the power to rescind or vary usually consists in referring to the Board for reconsideration. From its inception until Dec. 31, 1937, the Board gave formal hearing to 10,493 cases. Its decision was appealed in 124 cases, including 6 references for the opinion of the Supreme Court of Canada, 75 of these, including the above references, being to the Supreme Court of Canada and 49 to the Governor General in Council. Of the appeals, 13 of those carried to the Supreme Court were allowed and 3 of those to the Governor General in Council.

PART II.—RAILWAYS.

The treatment of rail transportation is divided into three sections dealing, respectively, with steam railways, electric railways, and express companies.

*This Part of the Act was proclaimed in force, with effect Jan. 15, 1939.