

Regulating the British Columbia Electric Railway: The First Public Utilities Commission in British Columbia

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I

One of the tidy explanations in our history is that Canadians did not really accept the idea of government regulation of business until the emergency of World War I and then "hastily abandoned" restrictions as soon as peace was fully restored.¹ As a generalization, this explanation contains much truth. The history of British Columbia's first Public Utilities Commission (P.U.C.) suggests that enthusiasm for government regulatory agencies declined after the war but it also reveals that the public was interested in government regulation of public utility companies before the war.²

The members of the public who agitated for the establishment of a P.U.C. were motivated largely by their desire for better street railway service at lower fares. Quite naturally, the British Columbia Electric Railway Company (B.C.E.R.), the largest public utility company in the province, vigorously opposed the formation of a P.U.C. The Company feared that a public investigation of its activities would reveal its enormous profits from the sale of electricity. It is surprising, therefore, that during the war, while public and political interest in a P.U.C. waned, the B.C.E.R. championed the idea of having such an agency. Eventually, in 1919, the provincial government reluctantly submitted to B.C.E.R. pressure and set up a P.U.C. This Commission was short-lived. When an amendment to the federal Railway Act accidentally removed the B.C.E.R.'s street railways from the P.U.C.'s jurisdiction, the Commission had little to do. Instead of complaining about an intrusion on provincial rights, Premier John Oliver gladly tried to relinquish the problem of

¹ J. A. Corry, "The Growth of Government Activities in Canada, 1914-1921," Canadian Historical Association, *Annual Report*, 1940, pp. 63, 72. See also Canada, Royal Commission on Dominion-Provincial Relations, *Report*, Book I, pp. 101-102; David Edward Smith, "Emergency Government in Canada," *Canadian Historical Review*, vol. L (December 1969), pp. 432-433.

² Since 1903 certain aspects of railway operations had been supervised by the federal Board of Railway Commissioners. By 1914, at least two provinces — Manitoba and Nova Scotia — had Public Utility Commissions.

regulating the activities of the B.C.E.R. to the federal government and to the municipalities. The Company actively sought federal control and municipal co-operation.³ The major purpose of this paper is to explain why the B.C.E.R. changed its mind about government regulation of its activities.

II

The first significant campaign for some government control over the activities of public utility companies in British Columbia came from the labour movement. Practical considerations rather than ideology stimulated this agitation. Early in 1910, after an accident on the B.C.E.R.'s inter-urban line killed fifteen men, the Vancouver Trades and Labor Council successfully argued for the appointment of a tramways inspector to enforce safety regulations. Gradually, the idea of government regulation of the B.C.E.R. spread into the general community which was anxious for better service at lower prices. Support for the idea was so widespread that in the spring of 1913 the general manager of the B.C.E.R. unhappily informed his superiors in London, England that it was "only a matter of time before a *PUBLIC SERVICE COMMISSION* is appointed to adjust and regulate lighting and power rates."⁴ Agitation for government regulations increased. When the B.C.E.R. raised street railway fares by withdrawing most special ticket privileges, Conservative Ward Clubs, the South Vancouver Board of Trade and some members of the Vancouver Board of Trade actively campaigned for a P.U.C. Official endorsement of the idea came when the Royal Commission on Municipal Government suggested the creation of a Public Service Commission which could compel utility companies "to give adequate service at reasonable rates."⁵

³ In seeking government regulations, the B.C.E.R. was not unique among corporations. Revisionist historians of the American Progressive era have observed somewhat similar phenomena of businesses desiring government regulations. For example, Gabriel Kolko, *The Triumph of Conservatism*, Chicago, Quadrangle, 1967 (first published 1963); Robert H. Wiebe, *Businessmen and Reform*, Chicago, Quadrangle, 1968 (first published 1962); Stanley Caine, "Why Railroads Supported Regulation: The Case of Wisconsin, 1905-1910," *Business History Review*, vol. XLIV (Summer 1970), pp. 175-189; Mansel Griffiths Blackford, "Businessmen and the Regulation of Railroads and Public Utilities During the Progressive Era," *Business History Review*, vol. XLIV (Autumn 1970), pp. 307-319.

⁴ R. H. Sperling to Michael Urwin, March 20, 1913, Box 649. (Unless otherwise specified, all references to correspondence are to the papers of the British Columbia Electric Railway Company in the Special Collections Division of the Library of the University of British Columbia.)

⁵ British Columbia, Legislative Assembly, Royal Commission on Municipal Government, *Report*, 1912, Victoria, King's Printer, 1913, p. 10.

Creating a P.U.C. was not simple. Members of the provincial cabinet disagreed about the advisability of a P.U.C. Attorney-General W. J. Bowser, one of the Vancouver M.L.A.'s, favoured the proposal. He was already feuding with the B.C.E.R. over the operation of the Tramways Inspection Act. Privately, the Attorney-General told A. S. Goodeve, a member of the federal Board of Railway Commissioners, that he could "have no idea what trouble I have had with the B.C. Electric Railway Company in trying to get the percentage of safety increased and better service for the public."⁶ Bowser warned William Farrell of the B.C. Telephone Company that public anger over B.C.E.R. fare increases would probably force the government to create a P.U.C.⁷

Premier Richard McBride was more amenable to the wishes of the B.C.E.R. During the pre-war financial depression he was vulnerable to the Company's contention that British Columbia needed capital "and the good will of the British investing public far more than it does a Public Utility Commission."⁸ Although several drafts of proposed P.U.C. bills were on his desk, the premier promised the company he would not introduce such legislation during the 1914 legislative session.⁹ The question of a P.U.C. was not raised by the legislators. At the end of the session, McBride advised the B.C.E.R. that a Public Utilities Bill would probably not come before the Legislature until 1916. Warning that "freak legislation" was always possible, he suggested that a P.U.C. was really in the company's own best interest. However, he repeated his earlier assurances that no Public Utilities bill would be presented to the Legislature without the company having had an opportunity to comment on the draft version.¹⁰

Then came the war. The unhealthy provincial financial situation deteriorated still further. Privately, the Attorney-General now indicated that "the Government has decided on account of shortage of money to do nothing other than carry on works that are absolutely necessary for the good of the Province. There has been too much money spent in the past on commissions, and there will be no more money spent on these sort of things, at any rate for sometime."¹¹ A few months later, McBride told the

⁶ W. J. Bowser to A. S. Goodeve, October 17, 1912, Attorney-General's Papers (hereafter AGP), 6874/2/12. (Microfilm in the Provincial Archives of British Columbia.)

⁷ R. H. Sperling to Michael Urwin, December 22, 1913, Box 82-1338.

⁸ R. H. Sperling to Richard McBride, January 8, 1914, Box 82.

⁹ R. H. Sperling's Memo of a Conference with McBride, January 13, 1914, Box 82.

¹⁰ F. R. Glover to George Kidd, June 13, 1914, Box 714.

¹¹ A. T. Goward to George Kidd, September 17, 1914, Box 82.

press that the 1915 legislative session would be "very light" as it would be futile to attempt to place on the statute books, "legislation which could only receive proper consideration during a period free from the turmoil of war."¹² The management of the B.C.E.R. regarded this as confirmation of its belief that a P.U.C. would not be established in the near future.¹³

Nevertheless, acting on instructions from their Board of Directors in England who regarded a P.U.C. as an inevitable but desirable alternative to municipal competition or freak legislation, the management of the B.C.E.R. reluctantly continued their preparations for the P.U.C. They re-organized their bookkeeping methods to reduce the amount of reserve funds on hand and to obscure the extent of their large light and power profits. They also gathered information about public utilities legislation elsewhere in order to prepare favourable draft legislation. By the spring of 1915, the local management of the B.C.E.R. was quite receptive to the idea of a P.U.C.

Preparedness does not explain this change in attitude. The appearance of jitneys on the streets of Victoria and Vancouver late in 1914 does.¹⁴ These vehicles seriously cut into street railway revenue. If the P.U.C. regulated both the jitneys and the street railway, it would at least save the B.C.E.R. from unfair competition. Unlike a political body such as the Legislature or municipal councils, a P.U.C. would probably be reasonable in its dealings with the Company. It might understand the Company's long term needs and dependence on light and power revenue to subsidize the street railway.

The Company was now in the awkward position of wanting a P.U.C. without being able to ask for it lest the government think it was anxious for one. If the utility companies appeared anxious — the B.C. Telephone Company agreed — they would be unable to protest against unsatisfactory legislation or political appointments to the Commission. The B.C.E.R. had realized that the Conservative government had its hands full with Prohibition, the Pacific Great Eastern Railway, financial problems and internal dissent. In these circumstances, it was not likely to introduce new legislation. Therefore, in April 1916, the general manager of the B.C.E.R. publicly began to advocate the establishment of a P.U.C.

¹² *Vancouver Daily News-Advertiser*, December 10, 1914.

¹³ George Kidd to Michael Urwin, December 18, 1914, Box 83.

¹⁴ The jitneys which had first appeared in Los Angeles were usually ordinary passenger vehicles whose driver-owners cruised along major thoroughfares. The jitney had the advantage of not having to follow any fixed route or schedule or of conforming to any safety regulations about the number of passengers they could carry or the speed at which they could carry them.

In September 1916, following possibly "the most complete overthrow in political history," the Liberals under H. C. Brewster came to power.¹⁵ Their victory seemed to increase the likelihood of a P.U.C. being established. One of the major planks in the Liberal platform had been government control of public utilities. Through its parliamentary agent in Victoria, the B.C.E.R. learned that the new Attorney-General, M. A. Macdonald, one of the Vancouver M.L.A.'s, favoured the establishment of a Commission on the lines of the Manitoba P.U.C. As a whole, however, the new Liberal cabinet was not enthusiastic about the immediate establishment of a Commission. Solving the economic and social problems which had plagued the previous government had a higher priority than the creation of a P.U.C.¹⁶

In June 1917, a strike of street railwaymen forced the government to act. The B.C.E.R. argued it could not afford to pay higher wages as long as it had to compete with the jitneys. The city of Vancouver, reluctant to accept the B.C.E.R.'s argument, suggested that the provincial government appoint a commission to investigate the urban transportation problem and possibly to act as the forerunner of a P.U.C. Both the B.C.E.R. and the provincial government, fearing that the strike might spread to electrical workers, accepted the idea.¹⁷ The government also adopted the B.C.E.R.'s recommendation that Adam Shortt, chairman of the federal Civil Service Commission, would be a suitable commissioner. Shortt, who had a national reputation as an impartial expert in labour relations, had already advised the provincial government on the setting up of a Civil Service Commission. The "expert" advisor to government was now coming into his own.

In his report, Shortt made several practical recommendations to alleviate the B.C.E.R.'s immediate problems. Of greater importance were his long term proposals. To prevent the recurrence of such a difficulty as that created by jitney competition and to relieve the B.C.E.R. from irresponsible criticism, Shortt advised the provincial government to establish a P.U.C. The main task of the Commission would be to accumulate and study evidence

¹⁵ *Vancouver Daily Province*, April 16, 1916, p. 14; J. C. Hopkins, comp., *The Canadian Annual Review*, 1916, Toronto, Annual Review Publishing, 1917, p. 780.

¹⁶ A. T. Goward to George Kidd, October 2, 1916, Box 83; George Kidd to Michael Urwin, December 7, 1916, Letters from the General Manager, 1916 (hereafter LFGM); George Kidd to R. M. Horne-Payne, March 1, 1917, Box 68.

¹⁷ H. C. Brewster to Adam Shortt, June 20, 1917, British Columbia, Premier's Official Correspondence, 1915-1920, File "B.C. Electric Strike," in PABC.

to determine what is and what is not reasonable and justifiable criticism of the public utility service rendered by private corporations, and on the basis of this knowledge to require the maintenance of a fair and equitable standard of efficiency, such as it is possible and reasonable to afford, and to regulate the rates at which such service can be maintained.¹⁸

Shortt believed that investors should expect to meet losses due to progress but he saw the P.U.C. "as a special guardian at once of the citizens who require the services of important public utilities and of the parties who undertake heavy risks and obligations in providing them. . . ." ¹⁹ The P.U.C., in short, would be of advantage to both the public and the company.

Soon after Shortt submitted his report, Premier Brewster indicated his willingness to establish a P.U.C. His Attorney-General, however, had not prepared draft legislation. In the meantime, the B.C. Telephone Company and the B.C.E.R. tried to devise a means of persuading the government to appoint an outside expert to prepare the public utilities legislation. The companies preferred an expert such as Shortt himself or Professor James Mavor of the University of Toronto who was "in every way a Company man, much more than Dr. Shortt." Raising the issue was still awkward. Neither company wanted to appear anxious to have a P.U.C.²⁰

Premier Brewster indicated he did not know when his government would be able to introduce appropriate legislation. After Brewster's sudden death, his successor, John Oliver, promised to inform the companies and other interested parties such as the Vancouver Board of Trade when his government began drafting the P.U.C. bill.²¹

III

Not until the fall of 1918 did the cabinet give detailed consideration to the establishment of a commission. They had several ideas. The Minister of Lands, T. D. Pattullo, was concerned about the control the P.U.C.

¹⁸ Adam Shortt, *Report [on] the Economic Conditions and Operations of the British Columbia Electric Railway Company and Subsidiary Companies*, [Vancouver, B.C.E.R., 1917], p. 59.

¹⁹ *Ibid.*, p. 66.

²⁰ George Kidd to A. T. Goward, November 30, 1917, Box 83; A. T. Goward to George Kidd, December 1, 1917, Box 83; *Victoria Daily Times*, July 6, 1917, p. 11; George Kidd to A. T. Goward, December 15, 1917, Box 83.

²¹ A. T. Goward to George Kidd, January 3, 1918, Box 83; George Kidd to Michael Urwin, January 4, 1918, Letters from the General Manager, 1918; W. A. Blair (Secretary, Vancouver Board of Trade) to John Oliver, September 9, 1918, Premier's Official Correspondence, 1915-1920, 1918, File B; John Oliver to William Farrell, B.C. Telephone Company, September 10, 1918, Premier's Official Correspondence, 1915-1920, 1918, File F.

might have over water power policy. He feared it might be subjected to influence from unnamed "interested parties." Pattulo suggested that by re-organizing the existing Board of Investigation in the Water Branch and by giving it more authority, a P.U.C. could be established with "very little additional expense."²² The cabinet also considered giving the P.U.C. wide powers over municipal expenditures as well as over privately-owned companies. At one point, they proposed to call the Public Utilities Commission a Local Government Board. However, the cabinet decided to delay a revision of the Municipal Act and then possibly bring about "some sort of union of these two laws, or their administrations."²³ Once the cabinet decided simply to establish a P.U.C., Premier Oliver and Attorney-General J. W. de B. Farris reassured the B.C.E.R. that it would have an opportunity to examine the draft bill and to suggest alterations.²⁴

The government honoured this promise. It readily accepted a B.C.E.R. proposal to cope with an immediate problem by inserting a clause from the Nova Scotia Public Utilities Commission Act which postponed any change in lighting rates or street railway fares until the P.U.C. could examine the matter.²⁵ This indefinitely extended the six cent fare which the Vancouver City Council grudgingly allowed the B.C.E.R. to collect from July 1918 to April 8, 1919.²⁶ The government also agreed to hear the B.C.E.R. and the other major public utility companies — the B.C. Telephone Company, the Western Power Company and the West Kootee-

²² T. D. Pattullo to John Oliver, September 13, 1918, AGP, 4211/14/18. The immediate impetus for discussions about establishing a PUC at this time may have come from a proposal of the North Vancouver City Council that the province establish a Hydro-Electric Power Commission similar to that of Ontario. North Vancouver City Council petition, August 14, 1918, in AGP, 4211-14/18.

²³ Attorney-General Farris in the Legislature quoted in *Victoria Daily Times*, March 25, 1919, p. 3. A. T. Goward to George Kidd, September 4, 1918, Box 83; E. C. Rogers to John Davidson, September 12, 1918, LFGM, 1918; George Kidd to R. M. Horne-Payne, October 31, 1918, LFGM, 1918.

²⁴ Memo of an interview between John Oliver, A. T. Goward and George Kidd, October 10, 1918, Box 83; Memo of an interview, A. T. Goward and J. W. de B. Farris, November 4, 1918, Box 595.

²⁵ George Kidd to John Oliver, December 7, 1918, Box 83; John Oliver to George Kidd, December 24, 1918, Box 595.

²⁶ Shortt had recommended that the BCER be permitted to raise its street railway fares. On July 8, 1918, the Vancouver City Council passed a by-law temporarily altering the company's franchise in order to permit the BCER to charge a maximum six cent fare rather than the maximum five cent fare which had been in effect since 1901. A month later, Mayor R. H. Gale refused to sign the by-law and the City Council reversed its original decision but failed in its attempt to secure an injunction against the increased fare. The BCER continued to collect the six cent fare. (See George Kidd to John Davidson, October 11, 1918, LFGM, 1918).

may Power and Light Company — present their objections. The companies were concerned because the draft provided that any appeal against a P.U.C. decision would be to the government rather than to the courts. The companies also wanted to have the Act include: the basis on which rates would be established, a statement of the right of the companies to a reasonable rate of return on their investment, a provision for the basis of evaluating the companies' property, and regulations for municipally-owned utilities which might compete with the private companies.²⁷

When the bill was presented to the Legislature, the leader of the Conservative opposition, W. J. Bowser, claimed it was "very much mangled" as a result of having been circulated among the government's friends.²⁸ Bowser was quite correct; the companies were congratulating themselves. They had, in fact, created their own regulations. So delighted was the B.C.E.R. that it called a special meeting of its British shareholders and advertised the establishment of the P.U.C. in sixty English newspapers.²⁹ The politicians were generally satisfied with the Act. Even though the Conservatives found flaws in the legislation and complained of the folly of establishing a new government agency when retrenchment was desirable, they accepted the general principle of the Act, the concept — borrowed from the federal Railway Act — that the rates charged for service to the public and the companies' rate of return on investment should be fair, equitable and respectable.³⁰

The main interest in the P.U.C. was the choice of the commissioner. From the companies' point of view, an impartial but experienced commissioner was essential; to the public at large, the ten year appointment at an annual salary of \$7,000 to \$8,000, was a choice plum at a time when well-paying jobs were scarce. George Kidd, the general manager of the B.C.E.R., doubted if anyone in the province who would accept the position would have "sufficient ability" to grasp his firm's problems. Nevertheless, he suggested that his directors press the government "to appoint a thoroughly capable and impartial Commissioner." In an interview with the premier, Kidd varied a traditional B.C.E.R. argument by emphasizing the importance of the personnel and constitution of the Commission

²⁷ George Kidd to John Davidson, January 20, 1919, LFGM, 1919. See Box 595 for details.

²⁸ *Victoria Daily Times*, March 25, 1919, p. 7.

²⁹ George Kidd to John Davidson, April 3, 1919, LFGM, 1919; W. G. Murrin to A. M. Manson, April 10, 1922, LFGM, 1922.

³⁰ *Victoria Colonist*, March 26, 1919, p. 10; March 25, 1919, p. 5.

for "the credit of the Province."³¹ The premier agreed that his first considerations in selecting a commissioner were ability and experience but admitted that politics played a role in such appointments.³²

Having previously agreed to listen to the representations of interested parties, Oliver gave them brief advance notice of his intention to name Mayor R. H. Gale of Vancouver as the sole commissioner. The B.C.E.R. quickly objected for Gale had won the civic election of 1918 by fighting the B.C.E.R. The Company was not alone in opposing Gale and was able to leave to others the task of lobbying the government for a change in the Commission's personnel. The Vancouver Board of Trade held a special meeting to nominate candidates for the post and, at a mass meeting in Vancouver, the Great War Veterans' Association threatened to stage a monster demonstration at the Legislative Buildings if Gale remained as Commissioner. Only the executive of the Manufacturers' Association of B.C. and J. S. Cowper, a Vancouver Liberal M.L.A., indicated support for Gale.³³

There was almost an organized lobby advocating another candidate. The Vancouver Board of Trade, the Great War Veterans and individuals such as the Hon. John Keen, Speaker of the Legislature, and Robert Kelly, a Liberal organizer, wrote to the premier and to the attorney-general praising Major John Ley Retallack of Kaslo. Retallack, a returned soldier, had a reputation for impartiality, technical experience as an engineer and executive ability.³⁴ Faced with widespread hostility to Gale and strong support for Retallack, the premier capitulated. He got Gale to withdraw and named Retallack as B.C.'s first Public Utilities Commissioner effective April 21, 1919. Retallack was not known personally to B.C.E.R. officials but they were well-satisfied with the choice.

³¹ George Kidd to Michael Urwin, January 4, 1918, LFGM, 1918; R. M. Horne-Payne to George Kidd, March 1, 1918, Box 192; Memo of an interview, George Kidd, A. T. Goward and John Oliver, October 10, 1918, Box 83.

³² According to a newspaper report, Oliver seriously considered resigning from the premiership to accept the position. *Victoria Colonist*, April 6, 1919, p. 5.

³³ John Oliver, Diary, April 9, 1919, p. 103 (In PABC); *Victoria Colonist*, April 20, 1919, p. 1; C. Spencer, President, and W. E. Payne, Secretary, Vancouver Board of Trade to John Oliver, April 9, 1919, Premier's Official Correspondence, 1919, File, "Telegrams" R. H. Gale to J. W. de B. Farris, August 2, 1918, AGP, 4022/13/18; George Kidd to Michael Urwin, January 15, 1918, Box 105-1423. Gale's appointment later haunted him politically. In the federal election of 1921 he ran as a Liberal candidate in Vancouver Centre. An opposition advertisement noted that he secured through Attorney-General Farris, "a lucrative job as Public Utility Commissioner to the exclusion of the soldiers." *Vancouver Daily Province*, December 3, 1921, p. 30.

³⁴ A collection of letters in support of Retallack may be found in the Premier's Official Correspondence, 1919, File "Public Utilities."

IV

After several delays due to the general strike in Vancouver, the P.U.C. held its first sitting under the chairmanship of Major Retallack on July 7, 1919. Its immediate concern was the B.C.E.R.'s six cent fare. W. G. Murrin, the assistant general manager of the B.C.E.R., convinced Retallack that the first step in assessing the situation was to decide on a valuation of the B.C.E.R.'s property in order to calculate a fair rate of return on the investment. The scope of the valuation set off a lengthy debate between Murrin and George McCrossan, counsel for the city. After pondering over their respective arguments, Retallack decided to have an appraiser ascertain both replacement and actual costs of the B.C.E.R.'s plant. The Commissioner, however, accepted most of the B.C.E.R.'s arguments about the extent of the investigation.³⁵

Before Retallack could appoint an appraiser, a C.P.R. solicitor in Vancouver noted that a recent amendment to the federal Railway Act seemed to remove the control of the B.C.E.R.'s railways from the provincial government and place them under the Board of Railway Commissioners. The Railway Commission had a reputation for fairness, ability and freedom from local political influence. Although Kidd desired to be free of local politicians, he knew that public opinion and the provincial government would deeply resent any attempt to turn this accidental federal intrusion into provincial affairs to the company's advantage. Therefore, he decided to advise the provincial government of the amendment to the Railway Act and to assist it in seeking a repeal of the amendment.

Kidd's motives for co-operating with the provincial government were not wholly selfless. The P.U.C. and Retallack had been "fair and reasonable." Moreover, since the Railway Commission was unlikely to exercise jurisdiction over light and power rates, the B.C.E.R. would be subjected to dual governmental control or even triple control as the municipalities could still legislate against the company by repealing by-laws which controlled the jitneys.

³⁵ W. G. Murrin to R. W. Bartlett, July 18, 1919, LFGM, 1919; George Kidd to R. W. Bartlett, August 18, 1919, LFGM, 1919; Memo by J. L. Retallack, September 4, 1919, Copy in LFGM, 1919.

McCrossan argued that the value should be the cost of reproducing the plant necessary to operate the street railway as a going concern within the city. The BCER, on the other hand, wanted to make its actual investment appear as large as possible. The Company asserted that the actual cost of the plant was greater than its replacement value because of piecemeal growth, unusual wartime costs, obsolescence and engineering mistakes. The Company also argued that any valuation should include the whole of its operations.

Parliament cannot always easily undo its work. Because the Brotherhood of Railway Trainmen wanted to bring certain electric railways in Quebec under uniform practice regarding safety regulations and the like, they objected to a simple repeal of the original amendment. The Railway Trainmen seemed to have more influence in Ottawa than any British Columbian political leaders. The amendment remained in force; the B.C.E.R.'s railway business was indefinitely under the control of the railway Commission which approved a temporary continuation of the six cent fare.³⁶

With the B.C.E.R.'s railway business removed from its jurisdiction, the provincial commission had little to do. It was, as the *Victoria Colonist* said, "all dressed up" with "no place to go."³⁷ The premier and his attorney-general also claimed that Retallack had been tactless and had refused to obey government instructions. He had overstepped his authority by defining the qualifications and salary of his secretary and by making an unauthorized trip to Ottawa.³⁸ Moreover, Oliver no longer seemed to have any sympathy for the B.C.E.R. in its struggles with the municipalities. The P.U.C. Act gave the government insufficient control over the Commission and the clauses about a "fair and reasonable" return worked more to the advantage of the company than to the public.

On April 13, 1920, just a year, two weeks and one day after creating it, the provincial government abolished the P.U.C. It was a simple case of infanticide. Rather than strengthening the weak Commission by giving it a tonic of additional powers or by administering a purgative in the form of a new commissioner, the government chose the easy solution of killing its creation. The B.C.E.R. was not a mourner. Its light, power and gas business was free of any government supervision and its railways were under the temporary control of the Railway Commission. If Parliament did not repeal the electric railway clauses of the Railway Act, the B.C.E.R. would find its position "very satisfactory." The situation, however, was very uncertain; the future of the six cent fare was unknown.³⁹

³⁶ George Kidd to R. W. Bartlett, November 6, 1919, Box 65; George Kidd to R. W. Bartlett, November 10, 1919, Box 65; George Kidd to R. W. Bartlett, December 3, 1919, Box 65; George Kidd to R. H. Gale, October 30, 1919, Box 211.

³⁷ *Victoria Colonist*, April 9, 1920, p. 6.

³⁸ John Oliver to J. L. Retallack, May 14, 1919, Premier's Official Correspondence, 1915-1920, 1919, File "Public Utilities." After his position disappeared, Retallack conducted a bitter public campaign to protest the government's treatment of him.

³⁹ George Kidd to R. W. Bartlett, April 13, 1920, LFGM, 1920; John Oliver, Diary, April 8, 1920, p. 133; George Kidd to R. W. Bartlett, April 19, 1920, LFGM, 1920.

The federal Minister of Railways seemed reluctant to exercise jurisdiction over electric railways. Only as the result of strenuous lobbying was the B.C.E.R. able to get a guarantee that it would be under the Railway Commission for at least a year.⁴⁰

v

In an ideal world, the B.C.E.R. would have preferred "no Commission at all and freedom to run our business as we like."⁴¹ The company, however, was anxious to have some regulatory body to protect it from excessive public demands. After weighing all the considerations, the B.C.E.R. decided that the well-known impartial rule of the Railway Commission offered investors considerably more stability than any revised P.U.C. or municipal control which would be constantly subjected to political influence.⁴² In order to insure its position under the Railway Commission, the B.C.E.R. decided to have its federally chartered subsidiary, the Vancouver, Fraser Valley and Southern Railways (V.F.V. & S.) acquire its physical assets. A simple amendment seemed fairly straightforward and, according to the company's parliamentary advisors, would be passed with only slight opposition.⁴³

The threat of continued federal control of the B.C.E.R. would also be a useful bargaining tool in re-negotiating agreements with the municipalities. While the company did not like the idea of municipal control of its operations, it was prepared to reconsider negotiating new franchise agreements. Municipal politicians in the past had frequently been capricious in their demands but they had always honoured the letter of the franchises. If the franchises were revised on terms favourable to the B.C.E.R., they would be acceptable substitutes for the supervision of the Railway Commission. Thus, the B.C.E.R. simultaneously worked for an amendment to the V.F.V. & S. charter and negotiated with the municipalities — chiefly Vancouver — for new local agreements. Indeed, at one point, the B.C.E.R. offered to withdraw its application for the V.F.V. & S. amendment and pay Vancouver's costs in opposing it, if the city would accept a franchise revision which would place the company's business "on as stable

⁴⁰ F. R. Glover to George Kidd, July 14, 1920, LFGM, 1920.

⁴¹ George Kidd to John Davidson, March 5, 1920, Box 65.

⁴² George Kidd to John Davidson, July 20, 1920, Box 65; George Kidd to R. W. Bartlett, July 6, 1920, Box 116; George Kidd to R. W. Bartlett, June 11, 1920, LFGM, 1920; F. R. Glover to George Kidd, July 14, 1920, LFGM, 1920.

⁴³ Strachan Johnston to George Kidd, July 26, 1921, Box 65; George Kidd to John Davidson, July 8, 1921, Box 65.

a basis" as it would be under the Railway Commission. At the last moment, however, these negotiations broke down.⁴⁴

Given the traditional attitudes of Canadian provinces to provincial rights, the B.C.E.R. would not normally expect any local political support in its endeavour to seek permanent federal jurisdiction over its affairs. The situation, however, was not normal. And, merely by implying that it would not operate its street railways for less than a six cent fare, the B.C.E.R. influenced government actions. Premier Oliver, fearing that his government would be blamed for abolishing the P.U.C. if the B.C.E.R. refused to operate its street railways, was willing to let the federal government handle a potentially troublesome local matter. Attorney-General J. W. de B. Farris, who did not want the P.U.C. revived; H. H. Stevens, the Conservative M.P. for Vancouver Centre; Mayor R. H. Gale and other municipal leaders including the president of the Union of B.C. Municipalities (U.B.C.M.), also promised to co-operate. Like Oliver, they feared the repercussions of the B.C.E.R. refusing to operate the street railways.⁴⁵

Not surprisingly, the co-operation of the municipal leaders was short-lived. They soon realized the disadvantages of having the B.C.E.R. under federal jurisdiction. The control of the Railway Commission, for example, might result in the abrogation of existing agreements between the company and the municipalities and the loss of municipal control over streets on which the street railways ran. And, the municipalities soon recognized the fact that the Railway Commission would not regulate lighting rates.

The municipalities actively opposed the B.C.E.R.'s application for an amendment to the V.F.V. & S. charter. Although the U.B.C.M. permitted W. G. Murrin to address its meeting, it asked the provincial government to restore the P.U.C. The Lower Mainland municipalities urged the

⁴⁴ George Kidd to John Davidson, February 22, 1921, Box 65; George Kidd to Reeves of the Municipalities, February 15, 1921, Box 202.

The negotiations failed when a vocal segment of public opinion led by the Vancouver Board of Trade, Joseph Martin and Alderman J. J. McRae and supported by several suburban Boards of Trade, the Vancouver Ratepayers' Association and the Vancouver *Sun* turned against the agreement. They objected to the wide powers it gave to a private firm of auditors, Price, Waterhouse and Company, to determine the value of BCER's capital investment and revenues. These figures would be used to calculate the rate of return on the investment — the basis on which fares would be periodically revised. Vancouver *Sun*, June 27, 1921; George Kidd to John Davidson, June 30, 1921, Box 65; Vancouver *Daily World*, August 22, 1921.

⁴⁵ George Kidd to R. W. Bartlett, September 15, 1920, Box 116; George Kidd to John Davidson, December 31, 1920, Box 65; George Kidd to R. W. Bartlett, September 25, 1920, Box 65; F. R. Glover to George Kidd, July 14, 1920, LFGM, 1920.

Union of Canadian Municipalities (U.C.M.), the provincial government, the B.C. Members of Parliament and Senators and the provincial Boards of Trade to assist them in opposing the amendment. The municipalities argued that the application interfered with provincial rights.

Within a few weeks, the premier told the B.C.E.R. that although he did not like the idea of reviving the P.U.C., he saw no alternative. He could refrain from opposing the amendment to the V.F.V. & S. charter only on two grounds: that the question was purely a federal one or that opposition was too troublesome and expensive. To argue the former would weaken his campaign for provincial rights; to suggest the latter, was a weak excuse. Oliver could not be swayed by B.C.E.R. arguments about the economy of using the Railway Commission, the need to reassure potential investors and the political problems a P.U.C. had caused in Manitoba.⁴⁶ Oliver's decision to support the municipalities was a demonstration of his political acumen. It also effectively ended the likelihood of the B.C.E.R. being able to secure the desired charter amendment since a Liberal government was also now in power in Ottawa.

Nevertheless, both the B.C.E.R. and the U.B.C.M. conducted active lobbies in Ottawa. For their part, the English directors of the B.C.E.R. attempted to strengthen their company's case by making their traditional plea about the need to protect the investment. They had thirty leading British bankers, financial houses and stockholders petition Prime Minister W. L. M. King and the Canadian Parliament for "friendly consideration" of the V.F.V. & S. amendment.⁴⁷ The forwarding of such a petition only revealed the directors' ignorance of the Canadian political scene.

Far more useful to the B.C.E.R. cause were the personal efforts in Ottawa of F. R. Glover, Kidd's executive assistant, and Col. A. T. Thompson, the B.C.E.R.'s Ottawa agent.⁴⁸ Glover and Thompson had considerable assistance. Kidd himself stopped in Ottawa en route home from a trip to England. The company hired Robert Laurier, a nephew of

⁴⁶ *Vancouver Daily Province*, September 1, 1921; *Vancouver Daily Province*, February 16, 1922; W. G. Murrin to George Kidd, February 24, 1922, Box 117; A. T. Thompson to W. G. Murrin, February 24, 1922, Box 117; W. G. Murrin to George Kidd, March 18, 1922, Box 117; W. G. Murrin to John Oliver, March 28, 1922, LFGM, 1922.

⁴⁷ Printed copies of the petition are included with John Davidson to W. L. Mackenzie King and W. C. Kennedy, Minister of Railways and Canals, and Members of the Senate and House of Commons, April 10, 1922, Box 117.

⁴⁸ For information on Thompson's earlier lobbying activities for the BCER see my essay, "The Fine Arts of Lobbying and Persuading: the Case of the B.C. Electric Railway, 1897-1917" to be published by McClelland and Stewart in a volume *Studies in Canadian Business History*, edited by David S. Macmillan.

Sir Wilfrid, to assist in canvassing the French-Canadian members of the Railway Committee. H. H. Stevens, though now a member of the official opposition, continued to be the B.C.E.R.'s main supporter in Parliament. Stevens also maintained lines of communication with local political figures such as Mayor C. E. Tisdall of Vancouver.⁴⁹ These advocates of the B.C.E.R. approached Dr. J. H. King, the Minister of Public Works and B.C. representative in the cabinet. Dr. King was sympathetic but non-committal. The B.C.E.R. lobbyists canvassed all 126 members of the Railway Committee.

The municipal delegation, led by George A. McCrossan, included the mayor of the city of North Vancouver and the reeves of Burnaby and the District of North Vancouver. It was as active as the B.C.E.R. lobby and it had more effective ammunition. Through the Union of Canadian Municipalities, which agreed that the B.C.E.R. application set a dangerous precedent,⁵⁰ the B.C. municipalities were able to present protest letters from municipalities throughout the country. These letters emphasized the argument that the legislation desired by the B.C.E.R. would infringe on provincial rights.⁵¹ The municipal delegation gained the ear of Sir Lomer Gouin, the Minister of Justice and a champion of provincial rights. Sir Lomer told the French-speaking members of the Railway Committee — 22 of 25 had pledged support to the B.C.E.R. — to kill the bill. The B.C.E.R. still had the pledges of 49 M.P.'s. Then, Prime Minister King, on learning that the Vancouver City Council opposed the measure, instructed all Liberals in the Railway Committee to vote against the V.F.V. & S. charter amendment. After a lively session⁵² on May 2, 1922, the Select Standing Committee on Railways, Canals and Telegraph lines, rejected the proposed amendment.⁵²

All was not lost for the company. It had failed to persuade the provincial government and the municipalities to accept the jurisdiction of the Railway Commission over its railways but it had convinced them of its need for security. Even while the company and the municipalities were competing for support in Ottawa, they had been under some pressure

⁴⁹ F. R. Glover to W. G. Murrin, April 8, 1922, Box 117.

⁵⁰ F. A. McDiarmid to President, UBCM, c. February 1921, copy in Box 116; John Oliver, *Diary*, February 12, 1921, p. 45; *Toronto Telegram*, March 21, 1921.

⁵¹ Circular letter from the Union of Canadian Municipalities, April 11, 1922, copy in Box 117.

⁵² F. R. Glover to George Kidd, May 9, 1922, LFGM, 1922; *Vancouver Daily Province*, May 2, 1922. Glover speculated that the prime minister wanted to reduce the prestige of Stevens, that he feared raising the issue of provincial rights and that his Minister of Railways was alarmed by the prospect of a flood of similar applications for federal jurisdiction over electric railways.

from the provincial government to discuss alternative means of meeting the B.C.E.R.'s needs.⁵³ Although direct negotiations between the B.C.E.R. and the city of Vancouver broke down, Premier Oliver continued his endeavours to bring the B.C.E.R. and the municipalities together.

The premier showed interest in appointing a competent court to deal with the company's situation particularly regarding the six cent fare. On April 11, 1922, while the discussions in Ottawa on the V.F.V. & S. amendment were in their concluding stages, Premier Oliver met representatives of the municipalities other than Vancouver and Burnaby. He informed them of his plan to appoint a body of some kind to examine the difficulties between the municipalities and the Company. In the interim, he asked them to maintain the six cent fare. Oliver seemed vague about the exact form of his "court" but indicated his continued dislike of reviving the P.U.C.⁵⁴

In spite of the premier's vagueness, the B.C.E.R. was happy to accept such a body provided its authority was limited to the specific question of street railway fares. Indeed, the B.C.E.R. attempted to bribe the city of Vancouver into accepting the premier's proposal by offering to pay the city's costs in opposing the amendment to the V.F.V. & S. charter. After tedious negotiations, the city eventually consented to maintain the six cent fare for three years in return for some minor concessions and a reduction in domestic lighting rates.⁵⁵

While the discussions between the city and the B.C.E.R. had been going on, the provincial government had been drafting legislation to create a body which would settle differences between the municipalities and the Company. In the fall of 1922, Attorney-General A. M. Manson asked the B.C.E.R. to comment on draft legislation setting up an authority to deal with specific street railway questions as they arose. The B.C.E.R. Passenger Rates Act, which the Legislature passed in December 1922, maintained existing fares but provided that any Municipal Council or the Company could apply to the cabinet for the appointment of a commission under the Public Inquiries Act to investigate any complaint that a "rate charged by the Company is unjust, unreasonable, unduly preferential, or is otherwise in violation of law. . . ." In introducing the bill, Manson

⁵³ George Kidd to R. M. Horne-Payne, February 16, 1921, Box 68.

⁵⁴ W. G. Murrin to F. R. Glover, April 7, 1922, Box 117; W. G. Murrin to F. R. Glover, April 13, 1922, Box 117.

⁵⁵ W. G. Murrin to F. W. Bartlett, April 13, 1922, LFGM, 1922; W. G. Murrin to C. E. Tisdall, May 1, 1922, Box 117; W. G. Murrin to George Kidd, May 1, 1922, Box 117; W. G. Murrin to C. E. Tisdall, May 2, 1922, Box 117; George Kidd to John Davidson, November 11, 1922, Box 65.

observed the need to preserve a stable financial situation to attract capital to the province. This act also relieved the provincial government from the costly business of establishing a P.U.C.⁵⁶

The B.C.E.R. was delighted with the Passenger Rates Act. The Act retained the six cent fare, it was confined to passenger rates and, it made no reference to light and power. Furthermore, any Commission set up under its auspices was to have due regard for giving the company "a fair and reasonable return" on the value of its property. Most importantly, the Act meant that the B.C.E.R. was not operating under a commission which was always "more or less a nuisance and danger." As the debate on the measure had demonstrated, the government was concerned for the "sacredness of contract."⁵⁷ Local authorities had realized that the B.C.E.R. would not spend money on new developments without assurance of fair treatment and a reasonable return on its investment.⁵⁸ And, no one wanted a permanent P.U.C. As Kidd explained, "the Government are afraid of the expense, the Cities and Municipalities are afraid of losing such control as they have over the Company and the Company, of course, is not anxious to have a permanent body with wide powers continually interfering with its affairs."⁵⁹

British Columbians, their provincial and municipal governments, their politicians of both parties and their major public utility company, agreed on one thing; they were weary of government regulation of private business. The war provided a simple but misleading explanation for this change in attitude. It is true that the war helped to divert public attention from the idea of having a government agency to regulate the activities of the public utility companies. Only in a very indirect way, however, does the war explain the reversals in attitude made by the provincial government and the B.C.E.R.

The government's unwillingness to implement the recommendations of the Royal Commission on Municipal Government may be explained by railway problems, competing demands for social reforms such as Prohibition, and especially by financial difficulties. All of these complications

⁵⁶ A. M. Manson to George Kidd, October 4, 1922, Box 117; *Victoria Daily Times*, December 9, 1922; British Columbia, Statutes, 13 Geo. V, c. 8, Marjorie C. Holmes, *Royal Commissions and Commissions of Inquiry under the "Public Inquiries Act" in British Columbia, 1872-1942: A Checklist*, Victoria, King's Printer, 1945 does not list any inquiries relating to the Passenger Rates Act.

⁵⁷ George Kidd to John Davidson, October 2, 1922, Box 65; A. T. Goward to George Kidd, November 4, 1921, Box 23-331.

⁵⁸ *Vancouver Daily World*, May 3, 1922.

⁵⁹ George Kidd to John Davidson, June 1, 1922, Box 65.

began before the war. The government's financial distress made it particularly sensitive to the B.C.E.R. argument about the need of security for its investment. Nevertheless, when the provincial government realized that the P.U.C. was really a tool of the company rather than of the government, it abolished the P.U.C. and tried to surrender the question of regulating the B.C.E.R. to the federal government. When the municipalities began to raise the "provincial rights" issue, Premier Oliver had to seek alternative means of regulating the B.C.E.R.

Superficially, the strangest reversal in attitude was that of the B.C.E.R. After vigorously opposing the P.U.C., the B.C.E.R. abruptly changed its mind about the Commission when jitney competition appeared. Although the company made many harsh comments about these vehicles, it could not blame the war for them. Moreover, a close examination of the company's attitude to regulatory agencies reveals what is actually a marked consistency. The primary concern of the B.C.E.R. was always the security of its investment. The B.C.E.R. supported the P.U.C. simply because it found it easier to co-operate with the provincial government — be it Conservative or Liberal — than to negotiate with the municipalities. The company also discovered that it could play a leading role in drafting legislation creating the P.U.C. and in devising alternatives to it. The B.C.E.R. agitated for government regulation of its activities when it realized that government regulation of public utilities could, in fact, become government regulation *for* public utilities.