

BEFORE THE SENATE OF CANADA

**STANDING COMMITTEE ON
LEGAL AND CONSTITUTIONAL AFFAIRS**

SUBMISSION OF THE GOVERNMENT OF SASKATCHEWAN

**CONCERNING THE PROPOSED AMENDMENT TO THE
CONSTITUTION OF CANADA:**

REPEAL OF SECTION 24 OF THE *SASKATCHEWAN ACT*

GOVERNMENT MOTION 14

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SUBMISSIONS OF THE GOVERNMENT OF SASKATCHEWAN TO THE LEGAL AND CONSTITUTIONAL AFFAIRS COMMITTEE OF THE SENATE OF CANADA

A. Purpose of the Resolution: Repeal of Section 24 of the *Saskatchewan Act*

1. The Government of Saskatchewan submits that s. 24 of the *Saskatchewan Act* must be repealed.

2. The Constitution of Canada should not place the interests of a specific corporation ahead of the interests of the residents of Saskatchewan, nor restrict the autonomy of the residents of Saskatchewan compared to the autonomy of the residents of other provinces. Saskatchewan is not a “junior partner” in Confederation.

3. The constitutional autonomy of the people of Saskatchewan should not depend on the date our province joined Confederation.

4. On November 29, 2021, the Legislative Assembly of Saskatchewan unanimously passed the Resolution which is now before the Senate by a vote of 55 yeas, 0 nays. The Minister of Justice, Gordon Wyant, QC, emphasised how important it is for the people of Saskatchewan that this Resolution be passed and s. 24 of the *Saskatchewan Act* be repealed.¹

5. On February 9, 2022, the House of Commons also passed the Resolution, again unanimously. There were statements from all sides of the House as to the importance of the proposed amendment. The vote was 334 yeas, 0 nays.²

6. Those two unanimous votes by the elected members of the Saskatchewan Legislative Assembly and the House of Commons demonstrate that this Resolution is a matter of great public importance to the people of Saskatchewan.

¹ [Legislative Assembly of Saskatchewan Debates and Proceedings \(Hansard\), November 29, 2022](#), pp. 1382-85.

² [Parliament of Canada: House of Commons Debates \(Hansard\)](#), Government Orders – Business of Supply: [February 8, 2022, 1035 to 1400, 1530 to 1835](#); [February 9, 2022, 1520](#).

7. On behalf of the people and Legislature of Saskatchewan, the Government of Saskatchewan urges this Honourable Committee to recommend the adoption of the Resolution by the Senate, pursuant to the Senate's authority under s. 43 of the *Constitution Act, 1982*.

B. Effect of Repeal

8. Repealing s. 24 of the *Saskatchewan Act* will have the following beneficial effects:

- eliminate an historical inequity;
- affirm that Saskatchewan is an equal partner in Confederation;
- affirm that Saskatchewan has the same autonomy and taxation powers as other provinces;
- affirm that all individuals and businesses pay their fair share of taxes;
- ensure that all transportation companies operate on an equal competitive basis, consistent with the policy set out in the *Canada Transportation Act*;
- ensure that Saskatchewan does not lose a substantial portion of its tax revenue, both retroactively and in the future.

9. The repeal of s. 24 will not work any hardship or prejudice on the Canadian Pacific Railway Company. For over a century, in the 116 years since the creation of the Province in September 1905, CPR Co. has paid all applicable provincial taxes in Saskatchewan. That includes paying all applicable provincial taxes since 1966, when CPR Co. agreed with the federal government that the exemption could be eliminated. The repeal of s. 24 will simply affirm the *status quo* of over a century.

C. Reasons for Repeal

10. Section 24 is an archaic relic of an earlier time. It places corporate interests ahead of the interests of the people of Saskatchewan. It also means that the people of Saskatchewan have lesser rights of self-government and autonomy than the residents of the original provinces and British Columbia, who are not restricted in their power to tax one of Canada's largest and most profitable business companies.

11. As will be explained in more detail below, the CPR Contract was signed by the federal government over 141 years ago, in October 1880. There is simply no way that modern governments would give a tax exemption of this sort to a single corporation today. The people of Saskatchewan should no longer have their constitutional authority purportedly limited by a tax exemption created by the federal government in the 19th century.

12. If the exemption is still in force, it will not be consistent with Saskatchewan's modern tax policies. Saskatchewan strives to maintain a fair and equitable tax system and relies on tax revenues to fund its health, social, safety and economic programs and services. These principles of fairness and tax equity ensure that everyone pays their fair share of taxes, whether a big company or an individual. The basic principle is that everyone benefits from government services, so everyone should pay, according to their means.

13. CPR Co. rejects these basic principles and asserts it is exempt from paying taxes for the common good and from contributing to the services it expects to receive from government, all while generating significant profits and corporate wealth in the consumption of these services, such as highways, overpasses, electricity, natural gas and water supplies, as well as policing, fire protection and emergency services.³

14. CPR Co. would obtain a perpetual commercial advantage over its competitors in the transportation industry. Other transportation companies, such as Canadian National, Air Canada, and West Jet all pay taxes, particularly fuel and income taxes. If CPR Co. is freed from paying those taxes, there would not be a level commercial playing field. CPR Co. would have a major competitive advantage, an advantage that would not have been contemplated 141 years ago, when CPR Co. was created as the only transportation company in western Canada.

15. In addition, the continued existence of s. 24 would not be consistent with federal transportation policy. The *Canada Transportation Act* provides that competition is one of the

³ Saskatchewan acknowledges that even if the exemption continues, CPR Co. would only be exempt from taxes in relation to the historic main line, and not in relation to taxes on other lines it operates in Saskatchewan. However, Saskatchewan estimates that the great majority of CPR Co.'s business relates to the historic main line, since it is the major route between the Lakehead and Vancouver.

basic principles of federal policy: "... competition and market forces, both within and among the various modes of transportation, are the prime agents in providing viable and effective transportation services."⁴ If s. 24 gives a tax exemption to CPR Co., and only to CPR Co., it would run directly contrary to this basic principle of federal transportation policy.

16. Nor is the amount in issue a minor matter. CPR Co. is claiming an estimated refund from Saskatchewan of at least \$341,000,000, up to December 31, 2020, with further refunds after that date, and a perpetual tax exemption thereafter. The estimate provided by CPR Co. breaks down as follows: (1) fuel taxes: \$248,000,000; (2) sales taxes: \$49,000,000; (3) income taxes: \$40,000,000; (4) corporation capital taxes: \$4,000,000.⁵

D. Historical Background: The CPR Contract and the *Saskatchewan Act*

17. In 1871, the Colony of British Columbia and the federal government reached an agreement for British Columbia to enter Confederation. A key part of the agreement was that the federal government would build a railway linking Central Canada to the "seaboard of British Columbia".⁶

18. In 1880, the federal government and a group of Canadian entrepreneurs, the CPR Syndicate, entered into a contract for the construction of the trans-continental railway, the "Canadian Pacific Railway", to link Central Canada to the Pacific coast. The Railway would be owned and operated by CPR Co. The construction of the Railway would satisfy the federal government's constitutional obligation to British Columbia under clause 11 of the *British Columbia Terms of Union*.

19. The federal government then passed the *CPR Act* in 1881.⁷ The Act "approved and ratified" the Contract, which was attached as a schedule to the Act. The Act incorporated the members of the CPR Syndicate as the Canadian Pacific Railway Company, and transferred their rights and obligations under the Contract to the Company.

⁴ [Canada Transportation Act, SC 1996, c. 10, s. 5\(a\)](#).

⁵ Estimate provided by CPR Co. to the Government of Saskatchewan in compliance with a consent court order.

⁶ [British Columbia Terms of Union, 1871](#), clause 11.

⁷ [Act respecting the Canadian Pacific Railway, SC 1881, c. 1, s. 1](#).

20. Clause 16 of the Contract contained the tax exemption which is at the root of the matter now. In clause 16, the federal government agreed to exempt certain property of CPR Co. from taxation by the federal government, and by provinces and municipalities established after the Contract came into force.⁸ Significantly, clause 16 did not limit the taxation powers of the original provinces and British Columbia, for whose benefit the Railway was built.

21. In 1905, Parliament created the provinces of Saskatchewan and Alberta, using its authority under the *Constitution Act, 1871*.⁹ The *Saskatchewan Act* and the *Alberta Act* are nearly identical. Both contained a restriction on the taxation powers of the new provinces, in s. 24 of each Act.¹⁰

22. The exemption in clause 16 has been held to apply only to the “historic main line”,¹¹ namely the portion of the Canadian Pacific Railway which was built to connect Central Canada to British Columbia, running through Manitoba, Saskatchewan and Alberta. The portion of the historic main line in Saskatchewan runs from the Saskatchewan-Manitoba border near Fleming, Saskatchewan, through Moosomin and Qu’Appelle to Regina, on to Moose Jaw and Swift Current, until it leaves Saskatchewan at the Alberta border, en route to Medicine Hat and Lethbridge. Note that the historic main line in Ontario and British Columbia has always been subject to taxation by those provinces. The exemption did not apply to other rail lines built by CPR Co. in the prairie provinces.

E. Section 24 was Part of the Historically Uneven Treatment of Saskatchewan

23. It is well-known that Saskatchewan did not enter Confederation as an equal partner with the original provinces. Section 24 is one example of that unequal treatment by the federal Parliament when it created Saskatchewan.

⁸ See Appendix A for the text of clause 16.

⁹ [Constitution Act, 1871, s. 2](#).

¹⁰ [Saskatchewan Act, SC 1905, c. 42](#), s. 24; [Alberta Act, SC 1905, c. 3](#), s. 24. See Appendix A for text of s. 24 of the *Saskatchewan Act*. Parliament imposed a similar restriction on Manitoba when it expanded Manitoba’s boundaries: [Act to provide for the extension of the boundaries of the Province of Manitoba, SC 1881, c. 14](#), s. 2(b).

¹¹ [Canadian Pacific Railway Company v. The Town of Estevan, \[1957\] SCR 365](#).

24. In 1905, Saskatchewan did not receive the natural resources of the Province,¹² unlike the original provinces which retained control of their natural resources in 1867.¹³ That meant that the federal government controlled Saskatchewan's economic development, and got the financial benefits of the resources.

25. Saskatchewan only got a financial subsidy from the federal government in lieu of the natural resources,¹⁴ losing both the revenues, and the power to use the natural resources to manage the development of the Province's economy.

26. It took a constitutional amendment to correct that inequity. It was not until 1930, 25 years after Saskatchewan joined Confederation, that the British Parliament enacted the *Constitution Act, 1930*, which confirmed the *Natural Resources Transfer Agreement*.¹⁵

27. Section 24 was a similar inequity imposed on Saskatchewan by the federal government. As outlined above, the purpose of the trans-continental railway was to bind the country together, by linking British Columbia to Central Canada, under the *British Columbia Terms of Union* of 1871.¹⁶ Although the railway was to benefit the provinces of Central Canada and British Columbia, those provinces did not have their taxing powers limited. It was only the three prairie provinces that had their taxation powers limited.

28. Saskatchewan and Alberta did not even exist when the Contract was signed and the *CPR Act* was enacted. As well, the residents of the North-West Territories had no representation in Parliament, and no say in the decisions being made that would affect them.¹⁷ Parliament simply imposed the terms, without any consultation with the residents of the Territories.

¹² *Saskatchewan Act*, s. 21.

¹³ [Constitution Act, 1867](#), s. 109.

¹⁴ *Saskatchewan Act*, s. 20.

¹⁵ [Constitution Act, 1930](#), Schedule (3): Saskatchewan Natural Resources Transfer Agreement.

¹⁶ *British Columbia Terms of Union*, clause 11.

¹⁷ The North-West Territories did not have any representation in the federal Parliament in 1880 and 1881. It was not until 1886, in response to the North-West Resistance, that the residents in some areas of the North-West Territories acquired representation in the House of Commons. In that year, Parliament provided that the southern areas of the North-West Territories would have four members in the House of Commons: [North-West Territories Representation Act, 1886, SC 1886, c. 24](#). The North-West Territories did not acquire representation in the Senate

29. Nor did the federal government in 1905 give the prairie provinces any subsidy to compensate them for the loss of tax revenue under s. 24. There was no equivalent to the federal subsidy to compensate Saskatchewan for natural resources retained by the federal government. The prairie provinces simply had their taxation powers limited by the federal Parliament.

30. By the restrictions on their taxation powers, Saskatchewan, as well as Alberta and Manitoba, were to subsidize CPR Co., to help pay for the railway that benefitted British Columbia and Central Canada.

31. Put simply, this is unfair. The transcontinental railway was to benefit all of Canada, including Central Canada and British Columbia. Either all of the provinces should have been required to subsidize CPR Co., or none of the provinces.

32. It is time to remove this inequity from the Constitution of Canada and affirm that Saskatchewan is an equal partner in Confederation, with exactly the same taxation powers as the original provinces.

F. CPR Co. Has Always Paid Taxes to Saskatchewan

33. CPR Co. has always paid provincial taxes to Saskatchewan, ever since Saskatchewan was created in 1905: railway taxes, income taxes, sales taxes, fuel taxes, and corporation capital taxes. In light of that history, dating back over a century, it would be very difficult for CPR Co. to advance any argument that the formal elimination of the tax exemption will change its operations in any way. Repealing s. 24 would not impose any prejudice on CPR Co.

34. By contrast, Saskatchewan has always relied on the taxes paid by CPR Co., just like the taxes paid by other businesses and individuals. Everyone has paid their fair share, until CPR Co. in 2008 asserted that it was exempt from provincial taxes.

until 1887, when Parliament provided for two senators from the Territories: [*Act respecting the representation of the North-West Territories in the Senate of Canada, SC 1887, c. 3.*](#)

35. The repeal of s. 24 will simply confirm the *status quo* of over a century. CPR Co. has always paid its taxes, and Saskatchewan has relied on that tax revenue. If s. 24 is repealed, there will be no prejudice to CPR Co.'s operating practices, as demonstrated by its payment of taxes over the past century. There would, however, be a substantial prejudice to Saskatchewan if it suddenly were required to pay \$341,000,000 to CPR Co., and lost a significant tax revenue stream into the future. That would be a major departure from the *status quo*.

G. CPR Co. Agreed to Give Up the Tax Exemption in 1966

36. In the 1960s, the federal government engaged in an intensive review of its regulation of federal transportation sectors. Building on the recommendations of the Royal Commission on Transportation (chaired by Murdo MacPherson of Saskatchewan), companies in the federal transportation sector lobbied for a new approach to federal transportation regulation, including greater competitiveness and less detailed regulation.

37. In particular, CPR Co. advised the then-Minister of Transport, Jack Pickersgill, that if the changes were made, it would give up its tax exemption. Ian Sinclair, the President of CPR Co., made that point expressly in a letter to Minister Pickersgill dated August 29, 1966. Minister Pickersgill read that letter into Hansard in debates on the new transportation bill, on September 8, 1966.¹⁸ The *National Transportation Act*, which implemented the regulatory changes, received royal assent on February 9, 1967.¹⁹

H. Retroactive Change

38. Saskatchewan's position is that clause 16 was rescinded as of August 29, 1966, the date of the letter from President Sinclair, advising that CPR Co. was prepared to give up its exemption. The Resolution is therefore retroactive to August 29, 1966. Section 24 should be repealed as of that date.

¹⁸ [Parliament of Canada: House of Commons Debates \(Hansard\), p. 8210, September 8, 1966](#) and p. 8250. See Appendix C for text of the letter.

¹⁹ *National Transportation Act*, SC 1966-67, c. 69.

39. In 1966, Saskatchewan could not have taken any steps to repeal s. 24. The only way to repeal s. 24 at that time would have been by a statute of the British Parliament, and only the federal government could request such an amendment. Saskatchewan does not know why the federal government did not do so.

40. Saskatchewan acquired the power to initiate a constitutional amendment in 1982, when the Constitution was patriated. At that time, CPR Co. was paying all applicable taxes, consistent with the 1966 agreement.

41. There have been retroactive constitutional amendments in the past. In fact, the first constitutional amendment after 1867 was the *Constitution Act, 1871*, which retroactively validated the federal Parliament's power to enact the *Manitoba Act, 1870*.²⁰ If that had not happened, Manitoba may not have been validly created. The retroactive amendment cured that serious problem and ensures that Manitoba has provincial status, then and now.

42. In addition to the *Constitution Act, 1871*, there have been six other retroactive constitutional amendments.²¹

43. Saskatchewan is not a party to the CPR Contract. If arguments about contract law are used to block this Resolution, Saskatchewan will have no way to eliminate the restriction on its taxation powers, keeping it in a perpetual status of "junior partner" in Confederation.

44. The Constitution is the supreme law of the land. A contract governed by principles of private law does not outrank the Constitution. A contract under private law cannot be used to block a province's power to initiate a constitutional amendment to achieve equality with the original provinces and British Columbia.

I. Pending Court Actions

45. CPR Co. has brought four court actions for refunds of taxes, all based on clause 16. Three are against Saskatchewan, Alberta and Manitoba, claiming that the restrictions imposed by

²⁰ *Constitution Act, 1871*, s. 5.

²¹ See Appendix B for a listing of the retroactive constitutional amendments.

the federal Parliament on their taxing power still apply. The fourth is an action against the federal government. The Federal Court ruled against CPR Co. in that action,²² which is now under appeal to the Federal Court of Appeal.

46. Since those matters are pending before the courts, Saskatchewan does not comment on them, other than to say that amongst other arguments, it is our position that the tax exemption in the CPR Contract of 1880 has been rescinded by the 1966 agreement between CPR Co. and the federal government. Saskatchewan also notes that the decision of the Federal Court in the action by CPR Co. against the federal government has not ended the Saskatchewan litigation.

J. Role of the Senate

47. Saskatchewan submits that the passage of this Resolution is entirely consistent with the role of the Senate, which was designed to protect regional interests. That is why the Senate has membership allocated by regions of Canada, rather than by population.²³

48. Co-Premier John A. Macdonald made this point in the *Confederation Debates*:

To the Upper House is to be confided the protection of sectional interests; therefore is it that the three [*now four*] great divisions are there equally represented, for the purpose of defending such interests against the combinations of majorities in the Assembly.²⁴

49. Similarly, George Brown, another Father of Confederation, stated:

In maintaining the existing sectional boundaries and handing over the control of local matters to local bodies, we recognize, to a certain extent, a diversity of interests; and it was quite natural that the protection for those interests, by equality in the Upper Chamber, should be demanded by the less numerous provinces.²⁵

²² [Canadian Pacific Railway Company v. Canada, 2021 FC 1014 \(CanLII\)](#).

²³ *Constitution Act, 1867*, s. 22.

²⁴ *Parliamentary Debates on Confederation of British North American Provinces*, 3rd Session, 8th Provincial Parliament of Canada (Quebec: Hunter Rose and Co., 1865) (“*Confederation Debates*”), p. 38.

²⁵ *Confederation Debates*, p. 88.

50. At the same time, Macdonald cautioned that the Senate must take into account the wishes of the people:

... it will never set itself in opposition against the deliberate and understood wishes of the people.²⁶

Here, those wishes have been soundly expressed in the unanimous votes of the two elected chambers, the Legislative Assembly and the House of Commons.

51. This Resolution, which is of such great importance to Saskatchewan and its place as an equal member of Confederation, fits squarely within the Senate's role of protecting regional interests. It will redress an historical inequity, namely the restriction Parliament imposed on Saskatchewan's taxation powers, unlike the original provinces and British Columbia. Section 24 of the *Saskatchewan Act* is one example of how Parliament did not treat Saskatchewan as an equal member of Confederation in 1905.

52. The repeal of s. 24 will eliminate this regional inequity. Even if the provision has been rendered inoperative by the 1966 agreement between the federal government and CPR Co., as we maintain, it is necessary for Saskatchewan's standing in Confederation to repeal s. 24 of the *Saskatchewan Act* and confirm that Saskatchewan is truly an equal partner in Confederation. Alternatively, if the clause is still in force, which Saskatchewan does not concede, it must be repealed, to establish Saskatchewan's status as an equal partner in Confederation.

K. Conclusion: Time to Repeal Section 24

53. For all these reasons, Saskatchewan submits that it is time to repeal s. 24 of the *Saskatchewan Act*. The repeal will be a clear affirmation that the people of Saskatchewan are equal partners in Confederation, with the same taxing powers as the original provinces and British Columbia.

54. By contrast, rejecting this Resolution would send the opposite message: that the Constitution of Canada does not give the people of Saskatchewan the same constitutional powers

²⁶ *Confederation Debates*, p. 36.

as Canadians in other provinces. Rejecting the Resolution would be a statement that Saskatchewan is not a full partner in Confederation. It would maintain a restriction on Saskatchewan's autonomy.

55. Rejection would also mean that one of Canada's largest and most profitable corporations is a free rider, and the people of Saskatchewan have to pay the extra tax burden to make up for the revenue lost under the exemption.

56. The Government of Saskatchewan urges this Honourable Committee, and the Senate as a whole, to affirm that the people of Saskatchewan are truly equal partners in Confederation, with the same constitutional autonomy and right of self-government as Canadians in other provinces. That is the promise of Confederation.

ALL OF WHICH IS RESPECTFULLY SUBMITTED.

Dated at Regina, SASKATCHEWAN, this 21st day of March, 2022.

“Gordon S. Wyant”

Gordon S. Wyant, QC
Minister of Justice and Attorney General
On behalf of the Government of Saskatchewan

APPENDIX A

Extracts from the Canadian Pacific Contract, 1880, and the *Saskatchewan Act*, 1905

1. **Contract between the Government of Canada and the CPR Syndicate, October 21, 1880; attached as schedule to *Act respecting the Canadian Pacific Railway Company*, Statutes of Canada, 1881, c. 1**

Exemption from taxation in N.W. Territories

16. The Canadian Pacific Railway, and all stations and station grounds, workshops, buildings, yards and other property, rolling stock and appurtenances required and used for the construction and working thereof, and the capital stock of the Company, shall be forever free from taxation by the Dominion, or by any Province hereafter to be established, or by any Municipal Corporation therein; and the lands of the Company, in the North-West Territories, until they are either sold or occupied, shall also be free from such taxation for 20 years after the grant thereof from the Crown.

2. ***Saskatchewan Act*, Statutes of Canada 1905, c. 42**

Provisions as to C.P.R. Co.

24 The powers hereby granted to the said province shall be exercised subject to the provisions of section 16 of the contract set forth in the schedule to chapter 1 of the Statutes of 1881 being *An Act respecting the Canadian Pacific Railway Company*.

APPENDIX B

Retroactive Constitutional Amendments

Constitution Act, 1871, RSC 1985, App. II, No. 11

- nothing in s. 91 of the *Constitution Act, 1867* expressly gave the federal Parliament the power to create new provinces.
- doubts arose about the validity of the *Manitoba Act, 1870* and whether Manitoba had been validly created.
- s. 5 of the *Constitution Act, 1871* retroactively validated the *Manitoba Act, 1870*, ensuring then and today that Manitoba was validly created.

Parliament of Canada Act, 1875, RSC 1985, App. II, No. 13

- s. 1 of the *Parliament of Canada Act, 1875* enacted a new version of s. 18 of the *Constitution Act, 1867*, dealing with parliamentary privilege.
- s. 2 of the Act retroactively validated a federal statute enacted in 1868, as if the 1868 statute had been enacted under the new version of s. 18.

Constitution Act, 1886, RSC 1985, App. II, No. 15

- neither the *Constitution Act, 1867* nor the *Constitution Act, 1871* gave Parliament the power to provide for territorial representation in Parliament.
- in June, 1886, the federal Parliament enacted the *North-West Territories Representation Act, 1886*, SC 1886, c. 24, to give the Territories four members in the House of Commons.
- later that month, the British Parliament enacted the *Constitution Act, 1886*.
- s. 1 of the *Constitution Act, 1886* gave the federal Parliament the power to provide for territorial representation in the House of Commons and the Senate.
- s. 2 retroactively validated the *North-West Territories Representation Act, 1886*, as if it had been enacted under the *Constitution Act, 1886*.

Canadian Speaker (Appointment of Deputy) Act, 1895, RSC 1985, App. II, No. 18

- retroactively validated a federal statute enacted in 1894, concerning appointment of the deputy Speaker of the Senate.

Constitution Act, 1907, RSC 1985, App. II, No. 22

- s. 1 of the *Constitution Act, 1907* implemented a new formula for federal subsidies to the provinces, which replaced the grants under s. 118 of the *Constitution Act, 1867*.
- s. 2 provided that the Act took effect from July 1, 1907, rather than the date of royal assent, August 9, 1907.

Constitution Act, 1930, RSC 1985, App. II, No. 26 – 1931 Amendments

- s. 1 of the Act implemented the Natural Resources Transfer Agreements, giving the Agreements the force of constitutional law.
- the Agreements provided that they could be amended by joint statutes of the federal Parliament and the Legislature of the relevant province.
- the Agreements also provided that they would come into force on the first day of the month of royal assent, which was August 1, 1930.
- in 1931, the start dates for the Saskatchewan and Alberta NRTAs were retroactively altered to October 1, 1930 (Saskatchewan by SC 1931, c. 51 and SS 1931, c. 85; Alberta by SC 1931, c. 5 and SA 1931, c. 5).

Constitution Act, 1930, RSC 1985, App. II, No. 26 – 1938 Amendments

- in 1938, doubts arose whether the transfer of natural resources to the provinces of Saskatchewan, Manitoba and Alberta had included the transfer of water and water-powers to the provinces.
- the federal Parliament and the three provincial legislatures each passed legislation providing that the Agreements had transferred the water and water-powers to the provinces, retroactive to the date each Agreement came into force (Saskatchewan by SC 1938, c. 36 and SS 1938, c. 14; Alberta by SC 1938, c. 36 and SA 1938, c. 14; Manitoba by SC 1938, c. 36 and SM 1938, c. 27).

APPENDIX C

Sinclair - Pickersgill Correspondence, 1966

CANADIAN PACIFIC RAILWAY COMPANY

Montreal, August 29, 1966.

W. S. SINCLAIR,
PRESIDENT

Dear Mr. Pickersgill:

You will recall conversations we have held over some months relative to whether as a contribution to the rationalization of Canadian transportation legislation, Canadian Pacific would be prepared voluntarily to forgo the perpetual exemption from municipal taxation provided in Clause 16 of its contract of 21st October, 1880, which is the Schedule to the Canadian Pacific Railway Act, S.C. (1881) Chap. 1.

This exemption from municipal taxation applies to the main line of Canadian Pacific outside of the boundaries of the original "Postage Stamp" Province of Manitoba, across Saskatchewan and Alberta. This exemption has contractual, statutory and constitutional validity.

One of the points that you raised in our discussions was that the exemption imposed a burden upon the affected municipalities which is not borne by other municipalities on the Canadian Pacific system. You also raised the point that a perpetual provision such as that referred to did not take into account changes and varying circumstances which had occurred in the many years since the contract was executed by Canadian Pacific and the Government of Canada.

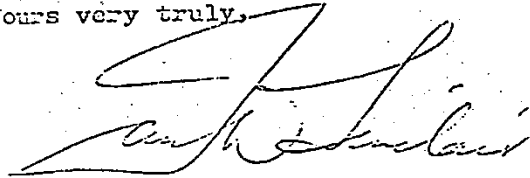
I have discussed the matter with the Directors of the Company and they have authorized me to say that, under the arrangement hereinafter mentioned, the Company is prepared to forgo voluntarily perpetual exemption from taxation by the local authorities on our main line in the Prairie Provinces in three equal stages: one-third for the year commencing January 1 after legislation is enacted modernizing and rationalizing existing legislation and taking into account, among other things, the effective changed conditions on freight rates otherwise fixed; a further one-third in the succeeding year; the balance in the third year from the commencement of the period as stated.

The Canadian Pacific proposes that the Government of Canada ascertain from the municipalities involved the municipal taxes that would have been payable, subject to statutory procedures as to assessment appeals, had the exemption not been in effect. When this amount has been determined, Canadian Pacific would make a grant of an equal amount to Her Majesty the Queen in the right of Canada for distribution to the municipalities involved in such manner as the Government of Canada might from time to time deem appropriate.

At any time after the expiry of the period indicated above, the Canadian Pacific would have no objection to action being taken to amend the constitution and the legislation to terminate the perpetual exemption from local taxation referred to.

You are free to make the position of Canadian Pacific public whenever it seems to you desirable to do so in the public interest.

Yours very truly,



Hon. J. W. Pickersgill,
Minister of Transport,
Parliament Buildings,
OTTAWA, Ont.

2 copies sent D. B. Wallace, Esq.
Sept. 9/66