

THE BACKGROUND AND IMPACT OF THE TRANSPORT AMENDMENT ACT  
(No. 2) 1983

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1. BACKGROUND:

- 1.1 The previous major alteration to Transport Licensing legislation was the relaxation of the 40 mile restriction to 150km on 1 October 1977. This move led directly to tonnage losses for Railways over a number of important trading routes - particularly between Auckland and the Bay of Plenty. In the main the losses arose from rate cutting within the 150km limit, and illegal cartage beyond this distance. The illegal cartage was generally carried out door to door, for railhead to railhead rates - unless competition between illegal operators forced rates even lower. Although it was not possible to isolate precisely the levels of traffic lost through the relaxations and illegal cartage, in the year ended 31.3.78 Railways suffered major tonnage losses in wool (74,000t), dairy by-products (58,000t), agricultural lime (32,000t), timber (200,000t) (1977 figure inflated by windfall logs) and General goods (345,000t). It must be emphasised that no one would suggest that road transport was solely responsible for these losses. However the road industry undoubtedly had a significant effect.
- 1.2 The Ministry of Transport found that its traditional methods were not adequate to enforce the extended limit, and in mid-1978 the Transport Licensing Unit was created. This unit - originally set up in the Auckland-Waikato-Bay of Plenty area and only recently extended to cover the balance of the country - specialised in transport licensing. But even with this unit the Ministry has never succeeded in eliminating illegal cartage. However, after many Court actions, the point had been reached under the "old" law where most "points of law" had been resolved and the success rate for prosecutions was steadily increasing.

## 2. MINISTRY OF TRANSPORT DISCUSSION DOCUMENT:

2.1 It was against this background, and in the midst of a overall decline in the freight market generally, that the Ministry released their Discussion Document on Land Transport Licensing and Regulation. This document, which was released on 2 September 1982, invited submissions on its contents to be lodged with the Secretary for Transport by 22 October of that year.

2.2 The Railways Corporation opposed many aspects of the Discussion Document and presented lengthy detailed submissions against its contents. This opposition was directed to what the Corporation saw as errors in fact and to differing views on the effects of any proposed changes.

The Corporation regarded the views put forward in the document with such concern that it engaged Senior Counsel to assist in the preparation of its reply (and to represent the Corporation before the Select Committee hearings which followed).

2.3 The main points advocated within the discussion paper which would affect Railways were:

- Qualitative Licensing to replace the present quantitative system for both goods and passenger.
- Relaxation of the Rail Restriction by substituting the 150km limit with one of the following:
  - a further extension of limit
  - a positive list of goods which must travel by rail
  - applying limit to main trunk only
  - long distance fee. (P45)
- A general tightening of enforcement legislation.

2.4 Of the four suggested methods of relaxing the rail restriction, the option incorporated in the legislation - the

long distance fee - was in the Corporation's view the lesser of a number of evils. Despite our doubts regarding overloading and speeding, it would have in all probability presented a reasonable phasing mechanism, had the fee been set to equate with 18-22% of the costs of the carriers most likely to compete with rail after the law was passed. Even the present level of the fee, (which is scheduled to reduce) is far too low to achieve an equitable phasing. It is significant that most of the road transport industry's complaints in relation to the present fee arise where mixed loads lift the fee well above the basic \$6 per tonne.

2.5 There were more than 180 submissions received by the Ministry which were categorised by them as follows:

- 41 sought the retention of the present (old) system
- 61 sought an easing of the quantitative licensing
- 40 sought qualitative licensing
- 58 sought retention of the rail restriction
- 86 sought relaxation of the rail restriction

Rail, Road Operators and the Freight Forwarding industry all opposed any major change to the rail restriction.

### 3. TRANSPORT AMENDMENT (NO.5) BILL:

- 3.1 The Transport Amendment (No.5) Bill was introduced to Parliament just prior to Christmas 1982 with submissions to the Select Committee to be filed early in 1983.
- 3.2 The Corporation accepted at that stage that the Bill reflected Government policy, and thus its comments were necessarily restricted to the mechanics of the legislation.
- 3.3 The main points in the Corporation's submissions to the Select Committee suggested;
  - that waybill and enforcement provisions applied to light vehicles

- that the proposed level of the permit fee was far too low
- permanent weigh stations to assist with enforcement
- the right for Railways to be heard in any application seeking exemption
- the right for parties to test statements made in support of applications other than for exemption
- a definition of "a scheduled service over a specified route"
- that when considering an application for a competitive scheduled route passenger service the economic criteria should apply to the licensee's activities only over the route in question rather than its whole business
- and asked how the Authority was to consider the matters set out in the papers in support of an application (how to consider safe and efficient operation etc).

3.4 The final Act as passed included a number of amendments sought by the Corporation although the major submissions regarding the level of the long distance fee and some degree of protection for route passenger services were not adopted.

#### 4. EFFECT ON NZR OF NEW LEGISLATION:

4.1 The Corporation estimated at the time that abolition of the rail restriction would effect 1981/82 traffic levels by a loss of:

- 18% of nett tonne kilometres (600 million)
- 25% of Revenue (\$102m)
- an additional \$16 million in revenue due to rate reductions.
- Result in 3600 wagon equivalents becoming surplus
  - 24 locomotives becoming surplus
  - 2500 staff becoming surplus

(estimated 5 years of natural attrition to reduce to this level).

5. EFFECT ON RAILWAYS TO DATE:

5.1 Although the rail restriction was not relaxed in total, the level of the long distance fee is so low that it is anticipated the full effect of deregulation will be felt long before the end of the phasing period.

5.2 Tonnage levels to the end of December have been to a large extent maintained, however this trend is not expected to continue into the New Year when there will be a seasonal reduction in the freight pool. Revenue has shown a significant reduction due to the need to reduce rates to maintain tonnage levels.

5.3 There has been a positive response by Railways in the areas of marketing and service which has aided in the retention of tonnage.

- Field Sales staff have been increased from 12 in 1982, to 27 at present with a further 8 new positions to be filled in the near future.
- A nationwide door to door freight service has been introduced using town carriers to bridge to and from rail.
- Train schedules between major centres have been accelerated to provide overnight services and "slot" trains introduced for premium freight.
- The Freight Handling Section has been restructured to place greater emphasis on customer services.

6. AFFECT ON OTHERS:

6.1 Railways' calculations showed a nett loss to the economy of \$30m as opposed to the MOT figure of \$37m gain. (Later amended to \$15-20m). Railways also predicted:

- Increases in traffic density on roads, with associated increases in accidents and travel costs and reduced convenience.
- Greater expenditure of overseas funds for fuel, new road vehicles and parts.
- Pollution increases in the form of noise, vibration and fumes - especially in provincial towns on main routes e.g. Levin, Otaki, Huntly.

## 7. PROBLEMS FORESEEN WITH THE LEGISLATION:

### 7.1 Waybills:

While the waybill legislation will simplify the gathering of evidence to support a prosecution I foresee difficulties for the road operator in cases of multiple hauls. For example, if a consignment is received on rail at Wellington for delivery to the Hutt Valley, the carrier is required by S113 subsection 4(c)(iii) to produce a waybill showing:

"The person carrying the goods, or in the case of carriage in a succession of heavy motor vehicles, the persons carrying the goods" and by

subsection 4(c)(iv)

"In sufficient detail to permit ready measurement of road distances for the purposes of Section 109 of this Act, the place at which the goods were first uplifted for the purpose of carriage and the place at which their carriage is intended to end."

Unless the carrier who delivered the goods to rail at the originating station is shown it would be very difficult for the delivering carrier to present a complete waybill in compliance with the legislation.

### 7.2 Nearest Station:

Although this rule was unchanged from the previous legislation it has been highlighted by new Section 109(8)(g). As a result of the difficulties which arose from the increased awareness of these provisions, the Corporation has now reprinted the Working Timetable distance tables (which tabulate the distances between places by rail) in order to "delete" a number of stations to enable a reasonable distribution area from major centres. Examples of stations deleted are Te Rapa and Claudelands adjacent to Hamilton. Matangi and Hautapu on the Cambridge line have been converted to private sidings, and Bruntwood closed. Bell Block, Smart Road and Breakwater near New Plymouth have been deleted. These stations will still exist for Railway purposes but cannot be used as part of an available route for licensing calculations.

### 7.3 Grandfather Rights

Section 6 of the Amendment Act removes all commodity and area restrictions within the rail restriction from licences. I can foresee some difficulties, and certainly disagreement, when this section is applied to amend licences.

For example, if a carrier already has North Island rights for TV sets, does he get New Zealand general goods subject to the rail restriction and retain North Island rights for TV's with exemption?

A literal reading of the legislation would suggest that he could not - yet he held the right to carry TV's within the 150km limit and had that been the only rights he held, the licence would have been amended to New Zealand general goods.

#### FUTURE:

8. While at the present time it appears that most of the previous regular illegal cartage simply continued moving with permits, it is the view of the Corporation that as the market diminishes following the Christmas upsurge, carriers will see

the \$6 per tonne charge for a permit as being the difference between obtaining or missing out on work and will elect to run without permits. Evidence of overloading is appearing and a drive down any major road in the country will show that speeding by heavy motor vehicles is widespread. These activities are encouraged by the time basis of permits, and were predicted by many of the submissions to both the Ministry of Transport and the Select Committee. These and driving hours, an aspect of the legislation which has not recently been actively pursued by the Ministry, will need constant attention if the phasing sought by Government in the legislation is to work.

The transition from Department to Corporation and then to deregulation has occurred too quickly to enable Railways to make all the changes necessary to meet the new market requirements. The electrification of the main trunk will prove to be a vital marketing asset, bringing reduced costs and transit times. However these benefits tend to be long term. In the short term future the Corporation faces the immediate challenge of survival. And to do this it must develop strategies that will, among other things, reduce its relatively high cost structure. These strategies are now being finalised, and in the coming months the public and the marketplace will see many changes implemented by the Corporation to enable it to remain a major land and sea transport operator in New Zealand.