

Shipper rights legislation passed at last
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The Senate moved quickly last week to approve shipper rights legislation, avoiding the threat that it could be killed if an election is triggered this winter. Passage of the legislation is to be followed within a month by announcement of the terms of reference for a promised railway level-of-service review sought by shippers for more than seven years.

It will be an opportunity for shippers of commodities such as grain and oilseeds to argue that only penalties for poor performance will drive the railways to improve service. "Getting the legislation through is an important victory for us," said Wade Sobkowich of the Western Grain Elevators' Association. "It will give us more bargaining power after problems have occurred but we have always argued that more important is the level-of-service review. Hopefully that will give us tools that will help avoid those problems."

The remarkably speedy Senate approval of amendments to the Canada Transportation Act came after intense lobbying by shippers to convince senators that the bill is crucial to prairie resource industries and that the bill's death so close to approval would have been heartbreaking. Bill C-8 received second reading approval-in-principle Feb. 12, quick committee approval Feb. 13 and third reading approval Feb. 14.

Senators got the message. "This is a bill that shippers have been waiting a long time for and that railways do not oppose," Saskatchewan Conservative senator Dave Tkachuk said. "Only politics have held this bill up. This bill will give the shippers leverage in their negotiations with the railways and should lead to better rates and services. This is something we in Western Canada think is extremely important."

Actually, the railways told the House of Commons transport committee last year that they considered the bill excessive and unnecessary. However, they dropped their opposition when they realized the political battle had been lost. Bill C-8 is the culmination of a seven-year battle by shippers to temper the monopoly powers of the railways. The Liberals' deregulation policies in the 1990s tilted the balance heavily to the railways, critics complained.

"Shippers have been waiting many years for the government to rebalance the legislation provisions of the act," Alberta Conservative MP Brian Jean, parliamentary secretary to transport minister Lawrence Cannon, told the Senate transport committee.

Among the bill's changes are provisions to:

- * Make it easier for shippers to complain to the Canadian Transportation Agency by removing the requirement that they must prove "substantial commercial harm" is in the offing if they do not get relief.
- * Allow shippers to band together to ask for final offer arbitration in a dispute with railways over freight charges.
- * Allow shippers to challenge not just freight rates but "ancillary charges" for such actions as cleaning or storing cars or demurrage.
- * Increase the notice of tariff changes from 20 to 30 days.

* Offer municipalities compensation after branch lines are abandoned to help local governments maintain roads that will be subject to more truck traffic and to compensate for a declining tax base.

However, shipper representatives said Feb. 15 the pending level-of-service review, expected to take one year, holds the most potential benefit for shippers. "This will be a broad look at the services the railways provide and the problems with that and the possibility of including some penalties in the legislation for railways who underperform," said Bob Ballantyne, chair of the shippers coalition that successfully lobbied for the legislation and the level-of-service review. "Shippers see this as very important and they anticipate this could be what really in the long term helps rebalance the negotiating power between shippers and what really are two monopolies." Sobkowich said it will allow shippers to raise issues of railway failure to provide sufficient cars or to provide them when they are needed. "If we can get a penalty system in place that punishes the carriers for missing deadlines or not providing the service that we need when we need it, it may help prevent service issues from arising," he said.

During Commons committee hearings on Bill C-8 last year, shippers related stories of elevator companies paying overtime day after day to employees called to the elevator to load promised rail cars, only to have the cars show up days late. Often, the result at the delivery end was demurrage charges for late arrival at port that were charged back to the shippers, including the Canadian Wheat Board.