

resulted either in the destruction of, or to the prejudice of the advantages provided to shippers in the maritime provinces under the Maritime Freight Rates Act in favour of persons or industries located elsewhere than in the select territory.

That is what he found as a question of fact on the evidence which was submitted with regard to the submission on potatoes.

The evidence submitted by the various parties represented establishes to my satisfaction that in the matter of potato shipments in Ontario the whole difficulty has arisen through motor-truck competition with the railways. Shipments of potatoes in Ontario by rail to Ontario points have become almost negligible while motor-truck shipments continually increase. The competitive tariffs established by the railways have had no effect whatever in respect of potato shipments from the Maritime provinces to Ontario points. Cancellation of these potato rates would not improve the position of maritime shippers in any degree, and would only result in depriving the railways of the small portion of the transportation of potatoes in Ontario which they have been able to retain even under a substantial reduction of rates.

9. The Supreme Court of Canada dismissed the appeal of the province of Nova Scotia et al from the judgment of the board of railway commissioners.

10. As a result of the potato case so-called maritime shippers as a body cannot obtain rate reductions relative to reductions elsewhere established by competitive tariffs. The relative advantage intended for persons and industries in the maritimes (and now for the Atlantic provinces) has therefore not been maintained and it is submitted that the intent of section 7 has been thwarted.

11. It is stated in Exhibit V that it will be open to shippers in select territory to complain to the board if their advantage is destroyed or prejudicially affected by the railways rate-making policies as was the case in respect of the potato shippers in the potato case.

If a shipper who takes upon himself the very considerable burden of applying to the board succeeds in establishing prejudice or disadvantage to himself under section 7, which the potato shippers failed to do and which is a question of fact, the only remedy is cancellation of the competitive tariffs in question, not a reduction in the applicant's rate, and it is submitted that in the present competitive environment that remedy would be of no use to the shipper applicant nor to the railways but only to the trucks for the reasons given by chief commissioner Guthrie above quoted.

12. It is therefore quite unrealistic to say that the Atlantic provinces shipper has any effective means of invoking Section 7 to overcome the effect on him of competitive tariffs established outside the select territory by the railways to meet truck competition.

13. Exhibit No. 1 filed by the Department of Transport shows a downward trend in the percentage of traffic measured in revenue and carloads which moves at non-competitive class and commodity rates in the several freight rate regions of Canada. While the maritime territory, like the other territories, has had a decrease in the amount of traffic moved at non-competitive class and commodity rates, it still has the largest percentage of non-competitive traffic of any territory of Canada.

14. What Exhibit No. 1 fails to show is the effectiveness, or depth, of competition in the several territories. The showing of a percentage growth in the number of carloads, or the revenue produced by such carloads, of maritime traffic moved at competitive and agreed charge rates does not show conclusively