

powers and jurisdiction in that it undertook to wipe out and nullify an agreement made by the Government of the Province of British Columbia as one of the parties.

(d) The said Order does not create just and reasonable rates within the meaning of the Railway Act but on the contrary creates unjust and unreasonable rates, and creates and permits unjust discriminations between different localities, and creates and permits the existence of unjust discriminations and undue preferences between persons who move the same or similar goods
10 for the same or similar distances, and who receive from the railway companies the same or similar services.

(e) No evidence was adduced before the Board to justify the said Order.

(f) The evidence and Reasons for Judgment show that evidence before the Board was ignored and that the Judgment was written with a view to easing the finances of the railways, which the Board found were going to be seriously impaired as a result of Parliament refusing to relieve the Canadian Pacific Railway Company of its obligation to carry grain and grain products under
20 the rates established in pursuance of 60-61, Victoria, Chapter 5, intituled "An Act to authorize a subsidy for a railway through the Crows Nest Pass," and not with a view to establishing what would be just and reasonable rates based upon cost of and remuneration for services as required by the Railway Act.

(g) That in making an Order upon such grounds the Board exceeded its powers, having assumed legislative functions.

(h) That the Order of the Board was in excess of its jurisdiction and powers in that it imposes on all British Columbia shippers, rates greatly in excess of those that shippers in other
30 parts of the Dominion have to pay for the same or similar service. These excess rates would not be charged if rates were fixed on the basis of reasonableness apart and aside from the question of the requirements of the railway companies to meet operating costs and to pay fixed dividends.

(i) The Railway Act of Canada, 1919, Section 319, requires whenever it is shown that any railway company charges any person, company or class of persons or the persons in another district, lower tolls for the same or similar goods or for the same or similar services than it charges to other persons, companies, classes of
40 persons or to persons in another district, or makes any difference in treatment in respect to such companies or persons, the burden of proving that such lower toll or difference in treatment does not amount to an undue preference or an unjust discrimination, shall be on the company. The evidence and the Reasons for Judgment