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CANADIAN FREIGHT RATE CASES

The Board of Railway Commissioners delivered judgment at Ottawa, July 30, on a number of applications made in connection with the freight charges of railway companies.

In the matter of the complaint of the Sydenham Glass Co., which was an application for lower rates than the special rates which had been agreed to by the railways interested, and which at present apply on shipments of glassware, bottles, and lamp chimneys from Wallaceburg, Ont., on the line of the Pere Marquette Rd., to Toronto, Hamilton, Berlin, London, Ont., and to Montreal, Que. The original application covered these three commodities both in carloads and less than carloads, but on the hearing W. H. D. Miller, Transportation Officer of the Canadian Manufacturers' Association, which laid the complaint, stated that the application would be restricted to bottles in carloads. After reviewing the evidence the judgment sets forth: "It will be observed that the rates ordered in the next succeeding paragraph, excepting to London, are the same as are in effect from Detroit; but we have adopted this scale quite independently of the fact that it is similar to Detroit. These goods are not manufactured in Detroit and therefore such traffic does not originate there; but the Board has to be reasonable and will direct that rates be charged according to the following scale: On bottles in carloads from Wallaceburg to London, 8 cents; Toronto, 13 cents; Hamilton, 13 cents; Berlin, 13 cents; Montreal, 23½ cents per 100 lbs. The Board rules therefore that these rates shall govern and in order to that effect will be made accordingly."

F. A. Scobell filed a complaint against the Kingston and Pembroke Ry., charging: (1) That discriminatory rates are imposed on the transportation of cedar lumber and railway ties and poles of all kinds; and (2) That unreasonable and excessive rates are imposed on the transportation of telegraph, telephone and trolley poles as compared with rates on lumber, etc. The complainant was a shipper of cedar and other wood products from Flower station on the K. and P. Ry., and the allegation was that the rates quoted by the company were discriminatory against cedar wood commodities as the same class of articles made from other wood than cedar were covered by the tariff and were carried at lower rates. The commissioners said in their judgment: "Mr. Conway, G.F.A. of the company, admitted this fact, but set up, as we considered with remarkable frankness, in justification of such course, that all railways had raised their rates upon certain

products in order to retard the shipment thereof, that the companies require these commodities largely for their own use, and that the object of the companies is to restrict the output so as to make sure that their future needs and requirements may be supplied. This open avowal of its policy respecting merchandise of this kind dispenses with the necessity of further inquiry into the facts, and squarely presents the question for the Board's decision, whether such a mode of dealing with traffic on the company's railway, or such a system of fixing or

be held that a railway company, enjoying, as it does, the privilege of a public franchise, should be allowed to single out a particular commodity, or class of commodities, and say to dealers in these goods: We cannot allow these articles to be shipped off our line to markets which you consider the best available, because we shall need all these products for our own use; and if you insist upon being given a rate, we will give you one, but it must be such a rate as will make it more profitable to you to sell to us at our price than to ship off our line of railway? There is

but one way we can suggest, consistently with law and morals, by which the railway companies can secure a monopoly of the cedar output along their lines, and that is by buying the cedar-producing lands. Our conclusion is that the charge of discrimination has been fully and completely established, and our order as respects this branch of the complaint will be that the Kingston and Pembroke Ry. Co. cease and desist henceforth and immediately from levying tolls on cedar and its products, such as lumber, ties, posts, telegraph, telephone and trolley poles, in excess of the tolls on other descriptions of timber and their products. That the respondent company substitute for its present rates tolls which shall not discriminate between cedar and other woods. That the tolls on cedar and other ties be not higher than the tolls on lumber, to be published in the company's Special Mileage Tariff on Lumber, etc., and that the tolls on cedar lumber, cedar posts and cedar poles of all kinds be not made relatively higher than the tolls on other lumber, posts and poles, and that the Kingston and Pembroke Ry. Co. substitute a new tariff giving effect to this order and submit the same within twenty days for the approval of the Board.

Inasmuch as we are led to believe that on other railways a system of varying rates and discrimination as against cedar and cedar products is in operation, and in order that such a system shall not longer obtain and continue in operation, the Board has deemed it advisable to make the order to the respondent company, stated above, a general order to all railways within the jurisdiction of this Board.

It is further ordered that Canadian Freight Classification No. 12 of May 1st 1903, be amended under the heading of Lumber, as follows, viz: that rails, fence posts, telegraph poles and ties of all descriptions, which are now classified to be carried by the railways by special contract only, be added to the list of commodities which are included in the said classification, in the term "Common Lumber," and are therein classified 10th class in



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applying its rates for transportation, can be recognized by the Board as a proper and lawful arrangement. The Railway Act, in conferring upon the Board a comprehensive jurisdiction to control and regulate railway rates, invests it with a discretionary power, without appeal, of determining whether tolls for the carriage of merchandise are just, reasonable, and free from discrimination, and we cannot hold, without doing violence to every just, equitable, and common sense consideration, that the tolls complained of come under such category. In the judgment of the Board the case is too clear for argument. Upon what sound, defensible principle can it

(Continued on page 803.)