

Counsel for the Provinces of Manitoba and Saskatchewan stated that there was a difference in average hauls East and West, and while stating that in various cases the shorter hauls were at much lower rates in the West than in the East, he contended that the important matter in the West was the long haul. It is a legitimate deduction from this to say that the level of the rate in the East being, according to Counsel's submission, concerned with an average short haul, affords no necessary criterion of what the rate should be on longer haul traffic in the West.

- 10 It was testified by the Canadian Pacific Railway Company that its rates on Building materials in the Prairies were lower than in Eastern Canada, there having been taken into consideration the necessities in connection with supplying shelter.

The examples given are illustrative of the fact that differing commercial conditions have brought about differing traffic rates and arrangements, and simply attract attention to the position that it is not in the abstract rates but in the concrete conditions that the measure of determining whether the rate structure is discriminatory or otherwise must be found.

- 20 In the Western Rate Judgment, after a very careful analysis of the rulings of the Board in the matter of discrimination and searching analysis of traffic conditions, generally speaking, was effective in the East. It found that, in the main, the rate structure of Eastern Canada was justified on the basis of water and rail competition; and the following language was used:

- 30 "For the reasons stated, I am of the opinion that while
"discrimination exists between the rates charged East and
"West of Port Arthur, the discrimination is justified under
"the Railway Act and the decisions of the Board already
"referred to. It is neither undue or unjust."

See Section 9 of the Judgment in question.

- 40 In the hearings before the Board in the present case, considerable attention was devoted to the matter of water competition in its bearing upon rates in Eastern Canada. Counsel for the Provinces of Manitoba and Saskatchewan was disposed to minimize the importance of this water competition. It is true that on account of tonnage readjustments arising out of the War and the incidents thereof there have been fluctuations in the waterborne tonnage, yet this does not detract from the fact that from the ocean well into the middle of the continent there is a water highway on which vessels are free to go and come, not tied down to any particular route, and not involving the large fixed investments which are essential to railway transportation. It is also true that adjacent to this section of Canada are the rail lines of