

the Maritime Board of Trade and the Governments of the Maritime Provinces applied to the Board for a reduction in rail rates on potatoes from select territory to Ontario and Quebec to correspond with the reductions within Ontario and Quebec, effective under such competitive tariff.

6. It was made clear that the question of the rates on potatoes were only in the nature of a test case and that the real claim of the applicants was that they were entitled to reductions upon all shipments from the Maritime Provinces to points in Canada where motor truck competitive rail tariffs were in force and more specifically in respect of all produce of the Maritime Provinces.

7. The real claim of the applicants failed despite the fact that Chief Commissioner Guthrie held that the purpose and object of the Maritime Freight Rates Act does apply to competitive tariffs established by railway companies between points outside the "select territory". In effect the real claim failed because the Board held that:

- (1) the only power of the Board was to disallow such competitive tariffs;
- (2) the Board had no power to order reductions in rates on Maritime products moving from the select territory in circumstances where competitive tariffs were established outside select territory by the railways to meet truck competition.

8. Chief Commissioner Guthrie then proceeded to deal with the specific claim for reduction in rates on potatoes shipped from select territory as a question of fact and found that in fact there had been no prejudice or disadvantage under Section 7 suffered by potato shippers because of the establishment of the competitive tariffs in question. His conclusions in this respect is stated at page 306:

In my opinion the applicants have failed to establish the competitive tariffs on potatoes, which form the subject of this application, have 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. 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 reduction 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. If a shipper who takes upon himself the very considerable burden of applying to the Board succeeds in