

HON. MR. MABEE, CH. COMR.:—I am of opinion that the rate is unreasonable and the Auburn rate less two cents should be applied as Mr. Hardwell recommends.

MILLS, COMR., agreed with HON. MR. MABEE.

BOARD OF RAILWAY COMMISSIONERS.

OCTOBER 23RD, 1911.

EXPRESS TRAFFIC ASSOCIATION v. CANADIAN
MANUFACTURERS ASSOCIATION AND BOARDS
OF TRADE OF TORONTO, MONTREAL AND
WINNIPEG.

13 Can. Ry. Cas. 169.

*Express Rate—Competition with Post Office Parcel Post—C. R. C.
No. 2, s. D.—Jurisdiction of Dom. Rvw. Board—Discretion of
Carriers.*

Express companies applied for leave to withdraw and cancel s. D. of the Can. Ry. Classification No. 2, on the ground that shippers of other classes of goods were unjustly discriminated against in favour of shippers under above s. D., and for an order extending s. D. to any weight up to \$10 in value. Section D. was framed by the applicants to meet competition of the Post Office parcel post rate. The respondents contended that s. D. should apply to any weight up to \$10 in value, although the P. O. Department only competed up to 5 lbs. in weight.

DOM. Rvw. Bd. held that by conference between officials of Canadian and American express companies s. D. had been placed upon the international classification applying to traffic between Canada and United States and *vice versa*, and it should not be removed without affirmative evidence that it was not profitable to the express companies.

That there was no undue discrimination because it was not caused by any initiative of the express companies, but if s. D. were removed there might be injury to shippers in Canada by very much lower rate being charged on traffic originating in U. S. A. and coming into Canada in the same cars as used by Canadian shippers.

That the Board has no jurisdiction to order express companies to compete with the P. O. Department, that matter is optional on the part of the express companies.

An application heard at Toronto, October 23rd, 1911, the facts of which are fully set out in the following oral judgment, delivered at the close of the hearing.

F. H. Chrysler, K.C., for the applicants.

J. E. Walsh, for the respondents.

HON. MR. MABEE, CH. COMR.:—There are two applications involved in this hearing. The first is by the express