

# THE Railway and Marine World

With which are incorporated The Western World and  
The Railway and Shipping World, Established 1890

Devoted to Steam and Electric Railway, Marine, Grain Elevator, Express, Telegraph,  
Telephone and Contractors' interests

Old Series, No. 202.  
New Series, No. 120.

TORONTO, CANADA, FEBRUARY, 1908.

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## Duluth-Winnipeg Coal Rate.

Chief Commissioner Killam delivered the following judgments of the Board of Railway Commissioners recently:

"This is an application by the Great Northern Ry. Co., a foreign company, which operates a line of railway in the United States, connecting at the boundary line between Manitoba and the United States with the line of the Canadian Northern Ry. Co., which is a company owning and operating a line of railway in Canada, and is subject to the legislative authority of the Parliament of Canada, for a reduction on the rate for the carriage of coal from Duluth, Minn., to Winnipeg, Man., over the lines of the two companies. At present there is a joint tariff of the two companies for this traffic, under which the rate charged is \$3 a ton, and the proportion allowed to the C.N.R. Co. is 75c. per ton. The G.N.R. Co. desires to have the rate reduced to \$2.50 a ton, allowing the C.N.R. Co. 75c. a ton, as before.

"Objection has been made to the jurisdiction of the Board to interfere, because of the G.N.R. Co. being a foreign corporation, and no portion of its railway being in Canada. The joint tariff was required by sec. 836 of the Railway Act, by which 'as respects all traffic which shall be carried from any point in a foreign country into Canada, or from a foreign country through Canada into a foreign country, by any continuous route owned or operated by any two or more companies, whether Canadian or foreign, a joint tariff for such continuous route shall be duly filed with the Board.'

"Similarly, sec. 335 required a joint tariff where traffic is to pass over any continuous route from a point in Canada, through a foreign country into Canada, or from any point in Canada to a foreign country.

"The portion of the Railway Act dealing with the tariffs and tolls begins with sec. 314, but the first section, which appears to be of importance in the consideration of the question thus raised is 322, under which 'The Board may disallow any tariff or any portion thereof which it considers to be unjust or unreasonable, or contrary to any of the provisions of this act, and may require the company, within a prescribed time, to substitute a tariff satisfactory to the Board in lieu thereof, or may prescribe other tolls in lieu of the tolls so disallowed.'

"Sec. 325 specifies the kinds of 'tariffs or tolls which the company shall be authorized to use under this act for the carriage of goods between points on the railways'; and sec. 330, those 'for the carriage of passengers between points on the railway.'

"By sec. 333, 'Where traffic is to pass

over any continuous route in Canada operated by two or more companies, the several companies may agree upon a joint tariff for such continuous route,' and

"By sec. 334, 'In the event of failure by such companies to agree upon any such joint tariff . . . The Board . . . may require such companies, within a prescribed time, to agree upon and file in like manner a joint tariff for such continuous route, satisfactory

any or all passenger tariffs of foreign railway companies.'

"2. The Board may require to be informed by the company of the proportion of the toll or tolls, in any joint tariff filed which it or any other company, whether Canadian or foreign, is to receive or has received.'

"Sec. 339 requires each company to 'deposit and keep on file in a convenient place, open for inspection of the public during office hours, a copy of each of its tariffs; and then specifies the different classes of tariffs to be so deposited, etc., among them being the joint tariffs required by secs. 335 and 336; and subsec. 4 of sec. 339 empowers the Board to determine the manner and form in which any such tariff shall be published, etc., and to exempt from publication the joint tariffs required by secs. 335 and 336.

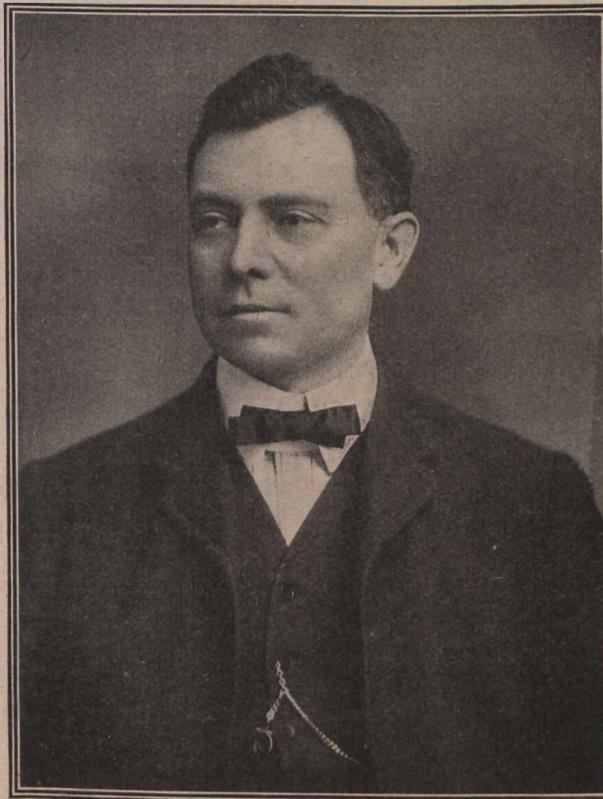
"Now, undoubtedly the Board cannot directly affect, or enforce orders against foreign railway companies not operating lines of railway in Canada, the word 'company' used throughout most of the clauses referred to, must relate solely to companies operating railways in Canada. In some cases, however, foreign companies are specifically mentioned, and the law must be applied to them to the extent specified by the statute, and to which it can be reasonably and practically applied.

"The joint tariffs referred to in sec. 338 must include the joint tariffs required by secs. 335 and 336. The proviso as to passenger tariffs of foreign railway companies and the express including of foreign companies in subsec. 2, show this, and the section seems to imply that any such tariffs may be superseded or disallowed by the Board.

"Having reference to the general powers of the Board and the scheme of the Act as regards railway tariffs and tolls, it would only seem reasonable that the Board should have a power of disallowance of such tariffs

in order to prevent the charging of unjust or unreasonable tolls or such as are contrary to any of the provisions of the Railway Act; and subsec. 2 of sec. 338 enables the Board to ascertain the proportion of the joint tariff rates to be received by any company, Canadian or foreign, and thus places the Board in a position to substitute other tolls by addition to or reduction from such portions.

"The powers given by sec. 323, with reference to tolls, are given before the description of the various kinds of tariffs which may be made. The act does not, except by the application of sec. 322, provide for disallowance by the Board of joint tariffs voluntarily made by two Canadian companies. It must have been intended



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to the Board, or may, by order, determine the route, fill the toll or tolls and apportion the same among the companies interested.

"Then come the clauses already cited requiring joint tariffs where the carriage is partly over a foreign railway.

"By sec. 338, 'Joint tariffs shall, as to the filing and publication thereof, be subject to the same provisions in this act as are applicable to the filing and publication of local tariffs of a similar description; and upon any such joint tariff being so duly filed with the Board, the company or companies shall until such tariff is superseded or disallowed by the Board, charge the toll or tolls as specified therein; provided that the Board may except from the provisions of this section the filing and publication of