

*Transportation*

lengthy and I would prefer not to complicate it further.

**Mr. Baldwin:** We shall test the determination of the minister on some other aspect of the bill.

**Mr. Cowan:** Mr. Chairman, I left this committee about ten minutes after six and returned at twenty minutes to seven. I should like to ask the minister whether I heard him correctly when he said in respect of clause 16 that decisions of the Board of Transport Commissioners could be appealed to the courts. I ask this question because I do not like the use of the phrase "court of record". I checked into the legal and judicial use of that phrase. The hon. member for Elgin informed me tonight, when I asked him about appeals, that the only appeal from a decision of the Board of Transport Commissioners is to the minister.

At page 11 of this bill under clause 18 it is stated that an applicant or an intervener on an application may appeal to the minister from a final decision. At page 12 there is a further reference to an appeal to the minister I am told, and verily believe, that one cannot appeal to the courts from a decision of the Board of Transport Commissioners. I should not like *Hansard* to contain a statement which is not legally correct.

**Mr. Pickersgill:** An appeal to the courts is already provided under the law as it stands. This is not being disturbed by the new legislation. There is provision for an appeal on questions of law from every decision of the Board of Transport Commissioners, and there is also provision for an appeal on questions of fact to the governor in council. There are certain provisions for other kinds of additional, but rather more limited, appeals to the minister under the Aeronautics Act. By this bill we are providing for certain appeals on matters of fact to the minister, but these are in addition to the existing appeals being retained in the bill.

**Mr. Bell (Saint John-Albert):** There seems to be a fairly good compromise here, but I feel the request I made before supper should be accepted. I do not like to fall back on the excuse that a couple of members who wish to speak on this clause are absent, but if the minister is in a good mood, in view of the fact it is an important part of this legislation and, as someone has said, is a palliative to new section 336, it might be a good idea to allow it

[Mr. Pickersgill.]

to stand. I have had the opportunity of glancing at the transcript of what Mr. Frawley had to say about this new section. It is true that he did not have full knowledge of the import of the new clause 16, but he attacked the section very strongly and pointed out that we are losing certain things by way of unjust discrimination in common law, without much being substituted. If the minister is agreeable I think this clause should be stood in order that hon. members may consider it further.

**Mr. Pickersgill:** The amendments have carried but if the committee feels it would be desirable to let clause 16 as amended twice stand, while we consider the remaining clauses of the bill, I am agreeable. I agree with hon. gentlemen that this is perhaps the most important clause of the bill. Therefore I do not wish to deprive any hon. member of the opportunity of saying something about it. I do hope we will not have another general debate.

**The Deputy Chairman:** Shall clause 16 as amended stand?

**Some hon. Members:** Agreed.

On clause 17—*Committees.*

**Mr. Schreyer:** I believe under clause 17 we can revert to a discussion of the quorum of the commission. The minister did say that whatever reference there may be to the quorum of the commission in this legislation may be found in clause 5 of the bill. After reading clause 5 and clause 17 it is very difficult, or perhaps impossible, to come to any clear understanding as to what a quorum shall be. Section 12 of the Railway Act presumably will apply, *mutatis mutandis*.

Let me point out to the committee that section 12 of the Railway Act, which states that the quorum shall be two, applies to the 17 man transport commission. Is that an accurate interpretation or does it mean that the same proportion of members shall apply to the new commission. The Board of Transport Commissioners is a seven man body and its quorum is two. Will the minister clarify this?

**Mr. Pickersgill:** It is not expected that the new commission will ever sit as a whole. In fact we are quite certain that all the members will never sit together, because the vice president in charge of research and one or two other commissioners will mainly be associated with research and will at no time sit on hearings. We expect that normally there will not be sittings of even a majority of the members during any one hearing, though there may be