

Transportation

minister late in the evening of January 10 suggested an amendment which I said went a long way towards the objective we wanted in the bill. I wanted to study it, and that is why I did not pursue the question. The next day we went on to study clause 16.

I do not see what harm would be done by the amendment, and I shall have more to say about it when it is moved. Perhaps that has answered the minister's question. I ought to allow someone else, who wishes to, to speak.

Mr. Pickersgill: Since my objection has been removed perhaps the Chairman could put the amendment, if the hon. gentleman wants to persist.

• (6:50 p.m.)

The Deputy Chairman: May I inform the committee that we have sent the one and only copy of the amendment to be copied, so that copies will be available to hon. members within a few minutes.

Mr. Pickersgill: Perhaps the hon. gentleman could repeat it from memory, because I wish to say a word about it.

Mr. Cantelon: That is quite a burden on my poor memory, but I will do my best. It dealt with clause 16(2)(b) and asked that after the word "affect" in the line "may prejudicially affect the public interests in respect..." the following words should be inserted—"the business of the complainant or", making the line read: "may prejudicially affect the business of the complainant or the public interest in respect of".

Mr. Pickersgill: I think I could put my objection to this amendment in a single phrase. I would think that those words are so wide as to open the door to a whole mass of frivolous complaints and would be bringing in by the back door all the bureaucratic disadvantages of a system of regulated rates as opposed to competitive rates. I believe that the "undue disadvantage" protection which can be invoked in order to get a case before the commission does provide adequate protection for shippers in specific terms.

I very much fear that if shippers were just allowed to allege that something was prejudicially affecting their business the commission would be required to exercise a discretion far beyond the phrase "public interest", unless it was very tough and paid almost no attention to the complaints. For these reasons I am not prepared to accept the amendment.

Mr. Olson: I wish to say at the outset that clause 16 is very different from the clause first introduced. The minister and the members of the standing committee know very well that when we began work on this bill there was no such clause at all. I wanted to say to the minister that what we have here is a substantial improvement.

At the same time I do not see the validity of the hon. gentleman's objection to the amendment which has been moved. The hon. member for Kindersley has inserted the amendment into a paragraph which says that the commission should make an investigation if it is satisfied that a prima facie case has been shown. In other words, the possibility of frivolous complaints being made is removed, since an applicant must establish a prima facie case before the commission is obliged to make any investigation.

I am sure the minister must understand this. I share the concern felt by the hon. member for Kindersley about the removal of the protection which used to be in section 317. I was concerned about this while the bill was before the standing committee and at that time I questioned some of the people I believed to be familiar with freight rates and their application. There have been many cases before the Board of Transport Commissioners in which pleas were made on the basis of discrimination. Such pleas could only be founded on the fact that the rate had an effect prejudicial to the complainant's business. In some of these cases no attempt was made to argue that it had a prejudicial effect on public interest.

Now the safeguarding phrase does not appear. In the light of the protection to which I referred a few moments ago, perhaps the minister will consider restoring the right, or the traditional privilege, which has been removed along with the old clause 317 of the Railway Act. I agree to some extent that if a shipper has reason to believe that a rate established by a carrier does prejudicially affect him it will be possible to argue that the public interest also would be affected, since he would have employees and others depending on him whose interests would suffer, and that these circumstances are provided for in the definition of public interest in relation to clause 11.

However, it does not seem to me that any harm would be done by leaving the phrase "the business of the complainant" in the bill. After all, if a shipper had a complaint he would first of all go to the new transport