

Transportation

opportunity to go to the cabinet or the supreme court on questions of law, I think there is a very substantial limitation in this legislation. I know that other hon. members wish to speak on this matter and I shall not say any more at the moment except to ask the minister for his views in this regard. Before the matter is concluded I may have more to say. It seems to me that under those conditions we are placing beyond the power of people who will be affected by new section 336 much of the benefit which I thought would have flowed to them under clause 16 dealing with appeals.

Mr. Pickersgill: Mr. Chairman, I wonder whether the hon. gentleman would direct his attention, as mine has just been directed, to subclause (4) of clause 16. It is to be found on page 10 of the bill and reads as follows:

If the Commission, after a hearing, finds that the act, omission or rate in respect of which the appeal is made is prejudicial to the public interest, the Commission may, notwithstanding the fixing of any rate pursuant to section 336 of the Railway Act but having regard to section 334 of that act, make an order requiring the carrier to remove the prejudicial feature in the relevant tolls or conditions specified for the carriage of traffic or such other order as in the circumstances it may consider proper, or it may report thereon to the Governor in Council for any action that is considered appropriate.

So it would appear, notwithstanding my rather quick answer, that the hon. gentleman's first impression is the correct one.

Mr. Baldwin: That is what I thought. That is why I wondered whether this does not mean that there is a conflict between subclause (2) which says, "that the effect of any rate established by a carrier or carriers pursuant to this act", and so on, and subclause (4). Perhaps we could leave this matter for the time being and the minister could arrive at some wording that would reconcile the difference. I was quite satisfied with subclause (4) but when I read subclause (2) I wondered how a person could get before the commission when the rate was not established by the carrier but by the commission. This has been puzzling me and that is why I raised the matter. I shall not pursue it any further, Mr. Chairman. The minister has reassured me in what he said, because it now appears that there is some means by which it could be done. This conflict, which might lead to difficulty later, might be easily resolved now by some explanation. I will leave the matter, but I hope the minister will be able to resolve my quandary at a later stage of this discussion before the clause is passed.

[Mr. Baldwin.]

Mr. Schreyer: Mr. Chairman, I should like to make further reference to clause 16 along the lines on which the hon. member for Peace River has spoken. As I recall it, the inclusion of clause 16 in the bill was welcomed by most members of the committee and interested parties who appeared before the committee. It seems to me to have the effect of giving to the shipper a greater degree of protection from unfair or prejudicial rate-setting by the different modes of transportation. The amendment put before us a few minutes ago by the minister does not really, I take it, change the substance of clause 16. It does not detract from it but if anything adds to the benefits of clause 16. There is, however, one amendment which I should like to suggest to the minister. It relates to subclause (4) of clause 16. I would explain my amendment in this way. Clause 16 (2) reads as follows:

Where a person has reason to believe

(a) that any act or omission of a carrier ... may prejudicially affect the public interest in respect of tolls for or conditions of the carriage of traffic within, into or from Canada, such person may apply to the Commission for leave to appeal—

Then the commission may make an investigation into the allegation of rate-setting that prejudicially affects the public interest. This is fine. Then we come to subclause (3) which reads as follows:

In conducting an investigation under this section, the commission shall have regard to all considerations that appear to it to be relevant, including, without limiting the generality of the foregoing, (a) whether the tolls or conditions specified for the carriage of traffic under the rate so established are such as to create an unfair disadvantage—

I emphasize the words "whether the tolls or conditions specified... are such as to create an unfair disadvantage", presumably to one shipper as opposed to another shipper of a like commodity or goods. I think this is a good provision, and because it is a good provision the very same wording should have been inserted in subclause (4). In my submission subclause (4) should read as follows:

If the commission, after a hearing, finds that the act, omission or rate in respect of which the appeal is made is prejudicial to the public interest or unduly preferential of one shipper as against another—

There is another alternative:

—or such as to cause unfair disadvantage, the commission may—

Then the clause should continue with the present wording. I do not want to make it awkward for the committee and the minister to deal with my suggestion, but I think it is a