

Transportation

Mr. Pickersgill: I have had copies made of all these amended clauses but they have not reached me yet. I will have them distributed as soon as possible, but in the meantime the hon. gentleman may use my copy.

Mr. Horner (Acadia): In respect of this particular clause it is difficult to ascertain just what the minister meant by this proposed amendment which apparently has been accepted.

Mr. Pickersgill: The amendment has been adopted; it is not proposed.

Mr. Horner (Acadia): I said "which has been accepted", if the minister would contain himself. In looking at it I still wonder whether the definition of "public interest" is clear and concise enough to include a company, such as a small vegetable oil plant, which is affected only by a specific railway rate which it feels is too high. This company might feel it is being discriminated against and might wish to appeal to the commission. In my interpretation of the amendment the definition of "public interest" is still too broad. It does not seem to aid a small manufacturing plant which employs perhaps six or ten persons if that plant is being discriminated against because of a particular freight rate and wishes to appeal. This really does not give this plant the right to appeal. It must be proven that the rate is discriminatory to such an extent that the public interest is affected.

This is a point to which I think members should pay particular attention because the definition really is not clear enough, in my quick appraisal of it, to suggest that an individual or a company would have any real right to prove that his business is affected. Not too many persons or companies in the area might be affected and therefore he would have difficulty in proving he had the right to appeal and should be heard by the transport commission. I should like the minister to explain briefly whether an individual who felt he was affected and was being discriminated against, although the public interest was not affected to any greater extent than represented by himself or his company, would have the right to appeal under this particular clause as amended.

Mr. Pickersgill: Yes. The hon. gentleman probably has a set of the clauses now. This involves clause 1 as well as clause 16. If you read paragraph (b) of subclause (1) of clause 16 you will see that the expression "public

interest" includes, without limiting the generality thereof, public interest as described in clause 1(d) which reads as follows:

each mode of transport so far as practicable carries traffic to or from any point in Canada under tolls and conditions that do not constitute

(i) an unfair disadvantage in respect of any such traffic beyond that disadvantage inherent in the location or volume of the traffic, the scale of operation connected therewith or the type of traffic or service involved—

Therefore I would say that any shipper who could allege that he was at an unfair disadvantage in comparison to some other shipper under similar circumstances would have a prima facie case and would have the right to be heard. If he convinced the commission, he would then have the right to have his rate changed to a substituted rate.

Mr. Horner (Acadia): The minister has suggested that we consider the amendment to clause 16 in conjunction with the amendment to clause 1 and that a person may have a prima facie case to appear before the commission if he can prove that another party is getting a better rate. For the sake of argument let us suppose that there is no other party engaged in a similar business in a similar location.

Mr. Pickersgill: I do not think he must be in a similar location. I think this requires only that the general conditions have to be similar. If there should be two shippers shipping over a distance of about 300 miles under the same kind of conditions generally and in the same quantities, then I do not think the one shipper would have to be in the same place as the other.

Mr. Horner (Acadia): If the minister is saying in effect that an individual will be able to build a prima facie case and appear before the commission if he is subject to a discriminatory rate, then I take it that the minister is accepting a fair interpretation of the words "public interest". What objection would the minister have to the addition, as was suggested in the committee proceedings, after the words "public interest", of the words "or his business"?

Mr. Pickersgill: I think we are just traversing ground which we have traversed before. This is almost precisely the same question that was put to me by the hon. gentleman previously. I have no new answer. The answer I gave previously was to the effect that if any transport costs affect his business I do not see how any tribunal on that basis could