

*Transportation*

**Mr. Churchill:** It could be reopened by the commission.

**Mr. Pickersgill:** I am sorry, was the hon. gentleman asking me a question?

**Mr. Churchill:** Would it not be within the competence of the commission to reopen the inquiry two, three or even five years later? It did not restrict the investigation just to the one occasion.

**Mr. Pickersgill:** May I thank the hon. member for Winnipeg South Centre for making a point that perhaps is much stronger than any I have made yet, and for making it very much more clearly than I had been able to. Of course, he too has the advantage of legal training that I lack.

The hon. gentleman asked whether it would not be open to the commission on its own motion to take this step later. Perhaps; I do not know, but certainly parliament would have been saying, if we had passed that clause, that it should be done only the once. This responsibility was to be imposed upon them only once and it would never be imposed again. The possibility might occur a thousand times, but surely that has nothing to do with the case. What that section sought to do was to impose a duty on the commission to make one determination and one determination only, and that would have been the end of the matter.

The amendment that I have offered, Mr. Chairman, so long as it might remain on the statute books, creates a continuing right in a railway to ask the commission anytime after two years that any rate fixed by law has been in effect to fix any rate that the railways set at any time in the future after a lapse of two years, but not earlier. Therefore, it seems to me that really there is a quite fundamental difference between the two objects, that is to say, the object of section 329 and the object of the amendment I have now moved.

If I may put it in this way, Mr. Speaker, the object of section 329 was to make a determination whether the railways asked for it or not. Its object was to make a mandatory determination as to whether certain rates were compensatory once and for all, and which would never recur. If they were not compensatory, the commission was to determine what in its opinion might be a suitable relief or payment.

The amendment before us does not require the commission to do anything about any of these rates unless an application is made in

[Mr. Pickersgill.]

respect thereto. I suggest that that is a quite different situation in essence from the other situation. I do not deny that in one or two cases the same effects might flow, but in essence it is an altogether different situation. I suggest it is as different as appointing a royal commission of inquiry into something and establishing a court before which a party can appear if he wants to have a determination made as to a certain matter. Surely the difference is pretty fundamental. Also, Mr. Speaker, instead of creating a single operation for one occasion only it would create a continuing process that would be available to the railways, if they wished to avail themselves of it, in a great variety of cases which might arise over and above the one specific case alluded to in section 329.

In addition to that, sir, there is another difference which perhaps may not be fundamental but which I suggest creates two very considerable variants. Not only does the amendment that I am offering, if Your Honour finds it to be in order, provide for a hearing or for any number of hearings in the event they were asked for, but it also provides, in a way for which there was no provision made at all in section 329, for representation of ministers of the crown when they wish to respond to any such application. I do not attach the same importance to that point, but it is a variant.

There is another important variant, sir, in the amendment I have moved. A provision which I thought was very desirable but which the committee saw fit to reject, and which consistent with having this variation I could not possibly find any way to put into the bill, was subsection 3 of section 329 which read as follows:

In making its report under subsection (1), the commission shall have regard to all matters that in its opinion are relevant including any change that has been made by any railway company that is subject to the jurisdiction of parliament in the equipment, methods or procedures used for the loading, carriage and unloading of grain and grain products.

That provision clearly related exclusively to grain and grain products. However desirable it might have been in itself, it would have been out of place in an amendment of the general character and purpose of this amendment.

There is, perhaps, one further point, Mr. Speaker, which was not raised by anyone opposite and was not raised by me in argument before the Chair. The most substantial similarity between section 329 and the