

proof should be placed upon the company rather than upon the would-be shipper. The Grain Commission has this whole matter in charge and under purview, which I thought would make it comparatively easy to have a final judgment in reference to each case as it comes up. I do not imagine that very many cases will come up—they might or they might not—in which the final judgment would have to be made by the Board of Railway Commissioners. If you grant that the company wants to afford all that it possibly can, and that the Railway Board is there to see that a reasonable distribution is made, you have a condition of things which will work for the minimum of disputes, and for the maximum of fair carriage.

Mr. OLIVER. How would the fact that some of the elevators are not owned by the railroads and some of them are, work out in practice? Would there be a possibility of the railway company favouring their own elevators in the delivery of cars, assuming that the railway company is a human institution and subject to the frailties of human nature? How would the condition be affected, as between the outside warehouse and the railway company elevator, assuming the conditions of human frailty which, with all deference, I have suggested? Does not that make for strength in the suggestion of my hon. friend that the burden of proof should be on the railway? Does it not add strength to his suggestion as to the difficulty of producing that evidence before the railway company by the warehouseman?

Mr. FOSTER (North Toronto). We have provided a piece of machinery for that, as my hon. friend will see if he looks at the last clause of the amendment:

The board shall make such regulations for application for and furnishing of cars as may seem necessary.

The board being on the spot makes regulations which govern that matter.

Mr. OLIVER. But this is when the regulations are not being actually lived up to, or where the warehouseman believes they are not being lived up to, and it becomes a question of evidence before the Railway Commission. Then the railway company, as my hon. friend has suggested, has all the evidence, and the warehouse that is disconnected from the railway has none.

Mr. FOSTER (North Toronto). I think that in this case the Board of Grain Commissioners would have all the evidence as to the application for, and the distribution of, cars, because they make the regulations which shall govern the application.

Mr. OLIVER. But not as to the possibility of the railway company furnishing

the cars, which, after all, is the final argument.

Mr. FOSTER (North Toronto). It is, but I imagine to men who understand railway conditions, when they get at about what is the condition of a road and what are the reasonable requirements that may be made, they get at it as all people get at evidence from long knowledge of, and great familiarity with, the situation. It is difficult with us. We have a thousand and one different things to do, and we put our minds on one thing for an hour and then we go to something else, therefore it becomes very difficult for us to deal in such a way. But constant familiarity with such things produces a capacity for forming judgment and getting at conclusions which, as my hon. friend knows, are sometimes really wonderful. We must not judge the difficulties in the way of the Railway Commission from our own more limited experience and acquaintanceship with these matters.

Mr. OLIVER. Might I interject one word here which is hardly connected with this clause. I want to point out that at the last discussion on this Bill, when we were considering the question of car distribution, the question arose, I think, about the power of the Grain Commissioners to order the railway companies to furnish cars. I then took the point that the Board of Grain Commissioners had not that power. I judge now from the terms of this amendment that, as a matter of fact, the Board of Grain Commissioners has not that power, but that it is vested in the Railway Commission.

Mr. FOSTER (North Toronto). I do not think we can mix up our executive power under the Grain Act with the executive power which is delegated to the Board of Railway Commissioners as a body of experts with advantage to both, and in the matter of the general distribution of cars it has to be governed, I think, by the Railway Board rather than by the Board of Grain Commissioners.

Section agreed to.

Mr. OLIVER. We are now ready to take up section 123, if the minister desires to do so.

On section 123, buying and selling of grain by owners, etc., of terminal elevators.

Mr. KNOWLES. I move to add the words 'public or' after the word 'any' This will make it read:

No person owning, managing, operating or otherwise interested in any public or terminal elevator shall buy or sell grain at any point in the western division.