

SITTING RESUMED

The committee resumed at 8 p.m.

The Deputy Chairman: When the committee rose at seven o'clock it was considering clause 16 and a proposed amendment by the Minister of National Defence. Shall the amendment carry?

Some hon. Members: Carried.

Amendment agreed to.

Mr. Pickersgill: Mr. Chairman, before we adjourned at seven o'clock I promised that together with my advisers I would give consideration to the possibility of defining the term "public interest" in clause 16 without circumscribing it, so as to meet the points raised by the hon. member for Acadia and the hon. member for Springfield. I have an amendment here which I think will accomplish what both of them have in mind, and in a fashion which I hope will not limit the commission from taking a broad, or as the hon. member for Peace River said, a liberal view of the term "public interest." It is not quite as simple as it appeared to my simple lay mind, but it is still pretty simple. The amendment reads as follows:

"That Bill C-231, an act to define and implement a national transportation policy for Canada, to amend the Railway Act and other acts in consequence thereof and to enact other consequential provisions, be amended by striking out lines 20 to 24 inclusive, at page 9 thereof and by substituting therefor the following:

Definition of "carrier", "public interest".

"(1) In this section,

(a) the expression "carrier" means any person engaged for hire or reward in transport, to which the legislative authority of the parliament of Canada extends, by railway, water, aircraft, motor vehicle undertaking or commodity pipe line; and

(b) the expression "public interest" includes, without limiting the generality thereof, the public interest as described in section 1."

I think that meets the situation. It means that the same words would be applied to the term "public interest" as the commission has to take account after a prima facie case is made. I think it is very desirable that instead of having one set of words to establish a prima facie case and another set of words to prove it, we should have the same set of words to meet both circumstances.

I believe this amendment meets the situation neatly, a situation which I confess troubled me since before Christmas when the hon. member for Peace River first mentioned it. There could be no doubt, with this language in the bill, that anyone who could provide

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prima facie evidence that there was an unfair disadvantage as described in clause 1, and as described again in clause 16 as we have just amended it, would have established his right to have a hearing. I gather from the expression on hon. gentlemen's faces that this would meet with general approval and so I ask my colleague, the Minister of Public Works, to move the amendment.

Mr. McIlraith: I so move, Mr. Chairman.

The Deputy Chairman: Shall the amendment carry?

Some hon. Members: Carried.

Amendment agreed to.

The Deputy Chairman: Shall the clause as amended carry?

Mr. Baldwin: The minister has been so flexible that I think I should try to find out how flexible he really is, and where the iron hand shows beneath the velvet glove.

I remind the minister of what I said about subclause (2) and my fear, which apparently is not shared by his legal advisers, that in order for a person, as defined under the subclause, to get to the commission he must first show that he has reason to believe the effective rate established by a carrier does such and such things.

● (8:10 p.m.)

When one relates this to new section 336 the rate established would not be a rate established by a carrier but a rate established by the commission and subsequently incorporated by statutory agreement. The minister has indicated that is the advice given him by his legal advisers. We could very easily have made this clear by adding after the word "act" as it appears in line 30 the words "fixed under section 336". However, if the minister and his advisers are satisfied that the words "any rate established by a carrier or carriers pursuant to this act" in fact include a rate established under new section 336 I will go along with it, but I do so dubitantly. I would not be doing my duty if I did not express some doubt and ask the minister for his views.

Mr. Pickersgill: That is my advice and I must say, although I am not as learned as my hon. friend, I agree with it. The rates determined by the commission must still be established by publication. Therefore the law is sufficient, and by following the hon. members suggestion we would just be adding unnecessary verbiage. The bill is becoming quite