I then looked at clause 74, which is the clause which has reference to the financial relationships generally—I do not often ask for the indulgence of the house, but when we are considering a matter as important as this I wonder if those who prefer to carry on a conversation would consider doing so elsewhere.

An hon. Member: You would lose half your party.

Mr. Pickersgill: I might need them badly later, but one or two of them could be spared. I recognize the extreme gravity of the issue before Your Honour. It is a very unusual thing to have an appeal from one of the officers presiding over us to another, particularly when the officer who made the original decision most obviously found it a difficult matter, and felt that it required profound reflection.

I can certainly agree with anyone who takes the view that this is a nice and very difficult question indeed to answer one way or the other. I was aware that if I were to make an amendment which the Chairman could possibly consider in order, or Your Honour if there were an appeal could consider in order, there must be, according to the standing orders, sufficient variance from subclause 329 of clause 50 which had been stricken out by the committee to make it a different question.

I realized also that there must be a difference in the pith and substance or the core, and that the amendment must not be substantially the same as the clause which was stricken out. It did seem to me that in clause 74, which deals generally with the financial relations between the government and the railways, which relates to many other matters in addition to the question of grain rates and indeed deals with grain rates only obliquely, but deals much more directly with payments in respect of branch lines and passenger services as well as the transitional payments and the relationship between any such payment that might be determined by the commission in the future, it would be possible to frame a motion which had sufficient variance to be in order.

It seemed to me also that there was no more reason for permitting an examination of the rates on grain than for permitting an examination of any other rates set by this parliament and not by the railways themselves, and that it was quite wrong to single out one commodity, even though it might be the most important one, for such consideration. In the interval between the time the committee made its decision in respect of subclause 329 and the time the amendment was moved, we had a debate on the new clause 59 and we had confirmed, so far as the committee could do so, every statutory rate with respect to the Atlantic ports. It seemed to me, sir, that if a review was provided which depended on someone else taking the initiative, a review that applied to all statutory rates, there would be a considerable variance but perhaps not sufficient variance.

It seemed to me also that in the interval we had a discussion in the committee on clause 16, and on the very important variety of cases in which a shipper might succeed under clause 16 in getting a rate substituted for a rate at which the railways themselves would have been willing, of their own volition, to carry the commodity, and that these cases could go on as long as this law was on the statute books. This would be, therefore, a continuing and continuous operation whenever a rate was substituted by the commission for a rate which the railways were voluntarily willing to give the shipper. This was something that was imposed by law, not directly by parliament but by virtue of the bill which we are putting through. This would be a process that ought to be continued.

It seemed to me it was just as right and reasonable for a carrier to be able to appeal against a rate that was non-compensatory as it was for a shipper to be able to appeal a rate that was not in the public interest because it gave undue advantage or caused him undue disadvantage. Indeed, this kind of consideration was very much more apt to be a continuing affair than any one shot affair such as the mandatory determination would have been under the proposal in subclause 329.

• (3:30 p.m.)

Mr. Diefenbaker: What does the minister mean by a one-shot affair?

Mr. Pickersgill: Section 329, which was removed by the committee, provided that within three years this determination should be made. If I may dare use a latin word in the presence of the hon. member for Macleod, I think that section would have been functus. In other words, once this determination had been made there was no further mandatory determination. What parliament had said was to be done would have been done, and it would have been over and done with, or so it would seem to me.