

Transportation

by statute but to which this bill is designed to continue to give protection.

If the hon. gentleman had concentrated on that part of the amendment I think he might have argued that that part came pretty close to the line, but I was quite sure that everyone wanted those definitions put back in and that there would be no question about putting them back in. I am sure that the hon. member for Humboldt-Melfort-Tisdale wants them back in, and so do I and I believe everybody else. However, I gather that is not the point raised by the hon. gentleman.

Mr. Woolliams: Would the hon. gentleman answer a question at this stage?

Mr. Pickersgill: I would be glad to.

Mr. Woolliams: Under the new amendment when an application is made by a railway for a review of the rates that application must be heard by the commission in the same way that the former section 329 was mandatory in the matter of a review. In this respect both of these sections demand that there be a review. In other words, they are both mandatory. Would the minister not be fair and answer yes to that question?

Mr. Pickersgill: Mr. Chairman, I certainly will not answer yes to that question. In the one case parliament is saying that there must be a review whether anyone asks for it or not. In the other case there will be no review at all unless by the voluntary act of the railway company a review is asked for. This is as different in principle as any two procedures could possibly be. It is one thing to set up a court and to say that certain people may apply to the court for relief; it is another thing to say that the court must look into the situation regardless of whether anybody asks any questions.

As I understood it, hon. gentlemen objected to all the presumptions that they said were involved in the government asking parliament to direct the commission to have a mandatory review. They did not want any conceivable presumptions of that sort created.

I confess that this argument did impress me. Mind you, Mr. Chairman, I did not think that in fact it did create a presumption, but I could see how people might feel that it did. It seemed to me that it was very much better to have a provision that threw the complete onus on the railway of saying that they had a case that they wanted to put. Once that case has been put, of course, the commission hears

it and makes whatever finding the facts justify.

This, Mr. Chairman, is an entirely different thing from creating any kind of presumption whatever. You might just as well say that because a shipper under clause 16 is permitted to go to the commission and allege there is some undue disadvantage or some other factor that is contrary to the public interest, this is creating the presumption that the railways are setting rates which put one person at an undue disadvantage compared with another. All this amendment does, Mr. Chairman, is to provide a remedy in the event that a wrong of this nature is committed. For these reasons I suggest that the amendment is, in its essential nature, quite different from the clause that was stricken out by the vote, and I therefore submit it is in order.

Mr. Diefenbaker: Mr. Chairman, we have no amendment before us, it not having been moved yet. What we are doing in effect is discussing in anticipation an amendment—

Mr. Pickersgill: I wonder whether the right hon. gentleman is not wrong. My hon. friend the Minister of Fisheries moved the amendment yesterday afternoon and it is before the committee.

Mr. Diefenbaker: Even though it appears in *Hansard* that the Minister of Fisheries indicated he moved it, I took it from the minister that in fact it had not been moved. Be that as it may, we have listened to the minister working with Herculean effort to explain the unexplainable. He quite frankly admits he was deeply impressed by the argument made by members of the opposition in support of the amendment moved by the hon. member for Winnipeg South Centre, namely, that what was being done in the original section was in fact to bring about a mandatory declaration that in three years there should be a review. So impressed was he by that argument, Mr. Chairman, which he now admits was effective, that he and every Liberal member voted against the amendment. This indicates either that today he is telling us the facts or that when he voted he was voting against what he believed was proper and fitting.

What concerns me most is that the Crowsnest agreement will indeed be placed in jeopardy by any amendments that can be made thereto. It is very well to say that they are ratified by section 328 as being in effect, but by this process of infiltration and erosion the government is actually asking parliament

[Mr. Pickersgill.]