

*Transportation*

The submission of Manitoba was presented by Mr. Mauro, and he did not like the phrase "public interest" either. Mr. Mauro put it this way in reply to a direct question from the hon. member for Medicine Hat, as reported at page 2597 of the proceedings before the transport and communications committee:

We are suggesting the amendment that appears in our submission, because we could find no indication of criteria for determination of injury to the public interest. We could find the negative one, that private interest was not public interest. We can find certain jurisprudence that would indicate that private interest is definitely not public interest. We do not seem to be able to find the positive side of what is public interest, short of what the party who has the authority to determine it decides upon.

That is the exact point I want to make, Mr. Chairman—"short of what the party who has the authority to determine it decides upon". In this case, of course, it would be the commission.

To return to Mr. Frawley's submission on behalf of Alberta, at page 2766 of report No. 39 of the committee proceedings on November 22 one finds a question which Mr. Frawley put to the Minister of Transport with respect to this particular matter, namely the question of public interest. Mr. Frawley asked:

What in the world is the connection between public interest and this man in southern Alberta complaining about his rate?

The minister thought that over and, of course, came out with the usual expert reply—and he does make excellent replies—in these words:

If Mr. Olson would permit me, this is one point I meant to make and forgot. It was never intended, of course, that appeals under section 317—

I interject here to say that section 317 is now, in effect, clause 16.

—should be limited just to shippers. There is no reason why the government of Alberta should not complain that a certain rate was not in the public interest.

Mr. Frawley: I would expect that the government of Alberta would be taking up the instance of this shipper and that shipper, and it would just be the sum of the part. I do not quite know how we would get away from the obstacle of proving public interest.

Then Mr. Frawley, who is a lawyer and who has been very much concerned with railway matters for quite a few years, said he felt that his question of public interest was not one that a shipper could easily prove. Certainly the minister's suggestion that the government of Alberta should fight his battles for him is a rather strange one, and I am

rather surprised that he makes it because usually he does not make strange suggestions. However, it seems to me it confirms the objection that Mr. Frawley was making; that is, that it is going to be very difficult for an individual shipper to prove that his business is in the public interest.

The minister's last minute attempt to equate public interest with the position of a provincial government in freight rates matters is not very convincing. In fact it is almost an admission that the shipper, the one most concerned, would find it impossible to prove that his rate violated the public interest. Is the minister, then, saying that a shipper complaining about unjust discrimination must get his provincial government to take his case to the commission, and if he does not succeed in interesting the province to retain counsel and take up all the individual cases which arise, then this highly praised section 16, the one that the minister puts such faith in, is just a complete failure? In my view, the public interest requirement destroys section 16 completely.

Professor Williams' views on the old section 317, which is almost the same as the new clause 16, are set out at page 2844 of the proceedings of the transport committee for November 24. I will not quote his words because anyone can look them up if he so wishes, but his opinion is that section 317 is unacceptable and objectionable. His opinion is the same with regard to the new clause 16. He is certain that it is no substitute for the present provisions of the law—that is, the present sections 317, 319, 323, etc.—of the existing Railway Act.

The principal reason for Professor Williams' opinion is based on this question of public interest, with which the section deals. He believes it does not deal with the effects of a discriminatory rate adjustment on the business of the individual shipper. Professor Williams, a man of international reputation in transportation economics, is squarely of the opinion that the public interest requirement makes the new section a useless substitute for the existing prohibitions against unjust discrimination in rate making.

• (6:40 p.m.)

That being so—and I am assured that these gentlemen have not changed their ideas—I feel certain that much difficulty will come about if we leave clause 16 unamended. For that reason I am about to move an amendment seconded by the hon. member for