

*Transportation*

of the exception in section 334, the compensatory one. I hope we accomplish what we wanted to accomplish when we had it. I close now by saying that I hope hon. members have gained the impression it is not a case of the maritime ports asking for something they did not have. They are in such desperate shape now that they are fighting a rearguard action. They are just trying to hang on to something they had and are not having too much success in doing that.

**Mr. Cantelon:** Yesterday, Mr. Chairman, I asked for a statement on just what the situation was with respect to the phrase "public interest" in clause 16. I find that the new clause 16 retains this phrase. While I realize that according to clause 16 public interest includes, without limiting the generality thereof, the public interest as described in clause 1, I am still left in some fear that the interpretation of that phrase by the courts may be harmful to private business and certain individuals. For that reason I feel it would be wise if we had a modifying statement with respect to this phrase. The new section very much enlarges the original section 317, and it now includes not only railways, but water carriers, motor vehicle transport, air lines and even commodity pipe lines. However, it is my opinion that even the new section, which I suppose will be the final new section, is almost as unacceptable and objectionable as the original section 317, and the difficulty lies in use of the phrase "public interest", a phrase which the minister stubbornly insists on retaining.

• (6:30 p.m.)

I really cannot understand this insistence, Mr. Chairman, because this is the first time in the history of rate regulation dating back to 1903 that the government has decided to require the shipper to prove that the rate he is complaining about prejudicially affects the public interests. Nor can I find any attempt that has been made, which in my view is complete, to define the phrase "public interest". There is still difficulty in it, in my view.

**Mr. Pickersgill:** Has the hon. gentleman considered the reference to clause 1 that is in what he calls the new clause 16 which, at the time it was adopted, seemed to satisfy the hon. member for Peace River and most of the other hon. members, and was indeed put in very largely at their suggestion?

[Mr. Bell (Saint John-Albert).]

**Mr. Cantelon:** I do not know whether it satisfied the hon. member for Peace River or the other members who were interested in it, but I can say that it does not satisfy me, and it is on that basis that I am speaking. I think there are others who have the same feeling that I have.

Under the sections of the present Railway Act which are being repealed, a shipper was required to prove only that the rate prejudicially affected his own personal interest or the interest of his business. Now, Mr. Chairman, just why should that be changed? This is a long way from the public interest by any definition.

This was the burden of the criticism that we heard in the committee of the original section 317, and in effect of the new clause 16 which was then proposed, though not of course, of this last new clause 16. I believe, as I have already said to the minister, that this criticism is justified, and it is most regrettable that the phrase was not modified. In my opinion an amendment is appropriate here, and this amendment I intend to move later.

In arguing this point it is notable that Alberta's submission, which was made by Mr. Frawley, placed a great deal of emphasis on this particular phrase "public interest" and objected very strongly to it. He argued, if in order to compress them a little, I may be forgiven for paraphrasing his submissions, that the shipper will be complaining about the rate that his business must pay. He must justify his complaint on the ground that the rate affects his interests. How then can he be expected to prove that his complaint is justified on the ground of public interest when the business in his own that is being discriminated against?

I will come back to Mr. Frawley's argument in a moment, Mr. Chairman. It seems to me that the phrase "public interest" was introduced as one more concession to the railways. It also seems to me that it is quite obvious that applications by single shippers on this ground will certainly fail because of inability to discharge the quite impossible onus of proving prejudice to public interest, whatever that may be. Nor do I think that clause 1 eliminates this responsibility; it gives too much right of interpretation to the commission and to the law officers. In my view, the result will be confirmation by the commission of rates which prejudicially affect a shipper's own business.