

Transportation

power of the commission to act in the matter of suspending, cancelling or amending licences, as I read the subclause there is no provision for an appeal by an intervener.

I appreciate that it may be unlikely that in the case of a licence being suspended or cancelled there will be a desire by an intervener to appeal; but when it comes to the matter of amending a licence—and I make this remark because of some observations that I had occasion earlier to bring to the attention of the Minister of Transport with respect to the operation of the Air Transport Board—in some cases this almost amounts to the granting of a new licence. There may be occasions in such cases when an intervener may be desirous of making an appeal to the minister on a decision of the commission. As I recall it, not too long ago the Aeronautics Act provided for an appeal to the minister by an applicant but not by an intervener.

Mr. Pickersgill: That was a change parliament already made in this session, I think.

Mr. Barnett: That matter was in my view rectified. I raise this question now because I have some concern that we may be faced in the future with a situation similar to that which has prevailed in the past, where an intervener who may have a perfectly legitimate reason for wanting to object to the action of the commission in respect to amending a licence may not, as I read this subclause, be able to do so.

I am wondering whether the minister has any particular reason to offer why this distinction is drawn between the power of appeal of an intervener in subclause 1 and the right of appeal to the minister in subclause 2. Could the minister enlighten the committee on this point?

Mr. Pickersgill: Mr. Chairman, it was a departure to permit an intervener to appeal in the case of an original applicant. In most cases where there is an application for some kind of service, it is by somebody who has never been giving the service. The interveners are nearly always people who are already in the business and who, generally speaking, are contending that the existing operators are giving all the service that is required and the result of having another person in the operation would be, instead of making it possible for somebody to make a living, to make two or three losers out of the situation rather than having someone able to conduct a viable operation.

There have been a number of cases where the board has granted licences and interven-

[Mr. Barnett.]

ers have felt they were really being done out of their livelihood. For that reason I recommended to parliament, and parliament saw fit to accept the suggestion, that in those circumstances an intervener should be allowed to appeal. The other case, of course, could only happen with respect to somebody who was already in the operation. It was thought that the intervener would almost invariably be an operator already in the business and that in these circumstances the only person who would be seriously aggrieved would be likely to be the applicant. We took this view for that reason. The alternative might have been provided. However, within reason I think we want to provide for appeals, but no one in his senses wants to turn any minister of the crown into a court of appeal.

It is not at all desirable to set up independent agencies to deal with these matters and then encourage appeals from them to politicians. It seems to me that for the time being we should wait a little while and see how this provision operates. If a number of cases arise wherein there seems to be a need for this other kind of intervention, a change might be made. But in my experience and the experience of the deputy minister, who was one of those who advised me with regard to the suggestion that parliament accepted recently, it was only in the case of original applications that there seemed to be any real need for an appeal.

Mr. Barnett: I certainly agree with the minister that it is not desirable that it should be common practice to launch frequent appeals to the minister, and in effect this should be the court of last resort only to be used in extreme cases.

● (9:50 p.m.)

In recognition of the right of parliament to whom the minister, as he has been saying, is responsible, to review matters and ensure that in the long run at least, and in general practice, the action of a commission of this kind is in accordance with the public interest, consideration should be given to the suggestion made. I could cite an example of the kind of situation that I foresee. I know that in the coastal area where more than one air line has been allowed to operate, an application was made by an air line for an amendment to an existing licence which, as I recall it, was described as an area licence. This would in effect have given that particular air line—at least in the view of its competitors—a position of a virtual monopoly, which would put the competitors out of business. In this particular