

Transportation

position where he is suffering from a discriminatory rate set by a railway. As legislators we must be prepared for this. I suggest earnestly to the minister that his only argument against this amendment is that it will open wide the door to a mass of frivolous complaints. I suggest that the minister reconsider that statement. Surely he knows that a person who appears before the board will have to prove that the rates are discriminatory against his business. In other words he must prove that the freight rates are putting him out of business.

The representative of the mining association appeared before the committee and quite conclusively pointed out that freight rates could and did affect their business, that they accounted for something like 50 per cent of the cost of their final commodity. Dr. Borts, when appearing before the committee, said that the formula instead of being 150 per cent above the variable cost, is something like 350 per cent above the variable cost.

• (8:10 p.m.)

If one projects the thinking in this regard and reads the committee proceedings, one finds that the mining association said that in a particular case transportation constitutes 70 per cent of the cost of their product. I asked the mining association officials whether they had any protection under this bill, and they said no. I then asked whether it would be conceivable that they could in fact be priced out of business. They assured me that this could very, very easily happen. Their commodities are sold all over the world. As everyone knows, ocean freight rates are far cheaper than rail. As I say, they assured me they could very, very easily be priced out of business by a competitor in another country. The officials of this association told me that if we did not give them some protection, this could happen.

The minister can talk all he likes about a provision with regard to discrimination being included in this clause. He says there must be two like industries hauling a similar commodity a similar distance, and if one rate is higher than the other, one must be discriminatory. This argument does not hold water. It is not conclusive because in many, many cases there will be only one industry, and the competitor may be in another country and moving goods into this country under ocean freight rates.

Mr. Pickersgill: Mr. Chairman, I wonder whether the hon. gentleman has looked at [Mr. Horner (Acadia).]

subclause 3(ii) of the clause we are discussing. It seems to me that this is another ground on which there would be no problem, because this provision is also in clause 1 and is one of the factors connected with the public interest. This part of the clause reads as follows:

an undue obstacle to the interchange of commodities between points in Canada or an unreasonable discouragement to the development of primary or secondary industries or to export trade—

The hon. gentleman was talking about the competitor being in another country and there being no other shipper in Canada. If a shipper could show that the rate the railway was setting was such as to prevent his entry into the export market, he would certainly have a prima facie case to be heard by the commission.

Mr. Horner (Acadia): I am not particularly worried about whether a person will be able to present a prima facie case. I would like to give him the right to appear and appeal under this clause. He should not have to prove that he has that right; I believe that we as legislators should give him the right. Whether when he appears before the commission he can prove his case is a horse of another colour. But we must give him that right. I am not condemning the whole of clause 16. I think it is good, although it could be better. I believe this amendment would make it a better clause.

The only argument the minister has put forward in saying that he cannot accept the amendment is that it will open the door to a whole mass of frivolous complaints. I do not believe this. I do not believe anyone will prepare a case, hire counsel and go to the expense of coming to Ottawa to appear before this commission in order to put forward a frivolous complaint. Therefore I think the argument advanced by the minister in respect of this amendment is very, very weak indeed.

If the minister says that all these rights are preserved and an individual will, under clause 16, have the opportunity to appear before the commission if he considers the rate to be discriminatory, why not make it clear in the clause? In the committee study of this bill the minister wanted to make a great many other things clear. He wants to nail down the definition of "grain". There has never been in the Crowsnest pass agreement a definition of grain; the definition has been built up over the years and is now accepted by the courts. The minister wants the definition to be clear in the case of grain, but he does not want to state emphatically that if the business of an