

I may not agree with the hon. member's proposed bill because, as I understand it, the bill before us proposes to amend Section 63 of the National Transportation Act to make it read as follows:

Where there has been a material change in the circumstances upon which an order or decision of the commission was based or out of which an application arose, the commission may review, rescind, change, alter or vary the order or decision, or may re-hear the application before deciding it.

As hon. members will recognize, the bill would limit the powers of the commission to review its own orders and decisions. Under its terms the commission could only carry out reviews "where there has been a material change in the circumstances upon which an order or decision of the commission was based or out of which an application arose."

At present the rules under which reviews are conducted are set out in the general rules of the commission. The general rules provide that:

—an application for review shall be filed with the commission within 30 days of the issuance of the commission's order or decision, unless the commission enlarges the time.

There are other areas which give the review committee a determination as to whether to re-open hearings. At present the review committee comprises the vice-president, five chairmen of the modal and two ad hoc commissioners. I understand in 1974 the committee considered the Comsol case, Commercial Solids Pipe Line Company Ltd. and examined the place of reviews with regard to appeals to the CTC. It came up with a decision, and I quote:

● (1722)

The decisions of the Transport Commission are appealable under the National Transportation Act, as under earlier legislation, to the courts—at present to the Federal Court—upon a question of law or of jurisdiction. Further, our decisions may at any time be varied or rescinded by the Governor in Council either on petition or on his own motion. Finally, section 55(1) of the National Transportation Act provides that on a question of law or jurisdiction a case may be stated to the Federal Court.

This is particularly significant to the residents of Vancouver Island, because in 1976 a decision was reached by the Transport Commission to allow the abandonment of passenger service on Vancouver Island. Almost immediately the province of British Columbia took to the federal courts a case in which it challenged the right of the E and N Railway to abandon its passenger service. This action was taken on the grounds that under the original agreement certain sums of money or land had been granted to the company by the federal government and by the government of British Columbia in return for an undertaking to carry on a rail passenger service in perpetuity. It was on this ground that the B.C. government decided to challenge the decision of the commission.

As I said earlier, the bill before us would restrict the powers of the CTC with respect to a re-hearing or re-examination of a decision.

As I have noted, it is also possible for the Privy Council to overturn a decision of the CTC. In December of 1977 I petitioned the Privy Council to take such action. If I may, I

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will read the letter I wrote to the Clerk of the Privy Council, Mr. P. M. Pitfield:

I, the undersigned, most respectfully wish to submit, through you, a petition to the governor in council under provision 64(1) of the National Transportation Act requesting that a decision taken on December 14, 1977, by the Railway Transport Committee of the Canadian Transport Commission Under order No. R-25960 be rescinded.

I received a reply almost immediately from Mr. James R. Midwinter, Senior Assistant Secretary to the cabinet, in which he states that the matter would be referred to the Minister of Transport (Mr. Lang) as the minister responsible for the act, for his consideration and advice to the governor in council. I bring this up because we are dealing with a very complicated area. The CTC is not only being questioned on legal grounds in the courts of British Columbia, but steps have been taken by a member of this House to have it rescind an order which would cause the abandonment of passenger service on Vancouver Island.

Hon. members may recall that last year I spoke extensively on this subject of rail line abandonment. There is only one railroad line on the island and only one road, so when rail passenger service is cut out you end with one road which is totally inadequate to meet the needs of the people who visit our beautiful island every year, especially in the summer months by the hundreds of thousands. I can give one figure which may be of interest. Over a four-month period more than 600,000 people visited the Pacific Rim National Park near Comox-Alberni.

With these things in mind I find myself uneasy hearing an hon. member put forward legislation whose effect would be to restrict the re-examination of decisions made by the CTC. There are some of us who want these decisions to be reviewed, especially decisions which affect what we consider to be essential transport services. For this reason I am bound to speak against this bill and trust we shall continue a wide open approach to the review of the commission's decisions. In many cases, as I say, we are dealing with matters which are of great importance to the areas affected.

Since the decision was made by the CTC some startling developments have taken place. In 1977 there were approximately 11,000 passengers using the E and N Railroad. With the rescheduling of dayliner services, a reduction of fares, and the introduction of a three-day excursion fare in 1978, the total number using the service to date this year is 40,000. This is the sort of information we would wish to see brought before the CTC, and it is for this reason I hope we shall allow the greatest latitude for the re-opening of these matters so that we may save transportation systems where there is a need for them.

I would hope that the CTC, if faced with an unfavourable result of the court action, would be willing to re-open its hearings so that new evidence could be produced to demonstrate the economic feasibility of this line due to the much greater passenger participation in the last year. Alternatively, Mr. Speaker, I hope the Privy Council, on the basis of the information provided for 1978, will overturn the CTC ruling. But these corridors must be kept open for the sake of the