

National Transportation Hearings

This panel would agree that it would be remiss to refuse to determine the matter before it is reviewable if the applicants and the intervenors had demonstrated that new facts had arisen or that the decision contained an error in law or in fact or that a matter of principle that had been proposed before the original committee had not been considered, or that a new matter of principle arose as a result of the decision . . . This committee cannot see that it would be to the public advantage to again consider the questions that have already been dealt with by the modal committee and to re-examine the body of facts from which in their wisdom earnestly and in accordance with the rules, the members of the original panel have drawn opposite conclusion.

The official citation for that case is *Amoco Canada Petroleum Ltd. et al and Canadian Pacific Ltd.* [1974] CTC 300, at 321, 322, 326.

● (1712)

Although this decision was criticized by a 1978 study for the Law Reform Commission by Professor H. N. Janisch, it nevertheless remains the Committee's final word. I should also make it clear that this was not a report of the Law Reform Commission itself but a study which was done for it.

But if a party is able to avoid the CTC's stated limitations on reconsideration of a matter merely by the device of making a new application rather than by asking for a re-hearing of an earlier application, then obviously there is an enormous loophole which the law must move to close if the CTC does not. It is this loophole which Bill C-201 attempts to cover by providing that the CTC may alter orders or decisions already made only where there has been a material change in the circumstances upon which the order or decision was based.

I would have no objection to an amendment at committee stage to broaden the grounds on which reconsideration can take place beyond the single one I propose in Bill C-201 of a material change in circumstances. The five grounds adopted by the CTC itself in the *Comsol* case would be acceptable. What is not acceptable is the continuation of the status quo under which there are no limitations on the CTC's powers of rehearing and there is therefore no end to litigation. Such a situation puts a premium on the financial resources of the contending parties and obviously places citizens' groups in an inherently unfavourable position, especially when confronted on the other side with the resources of a gigantic corporation.

It is my hope hon. members will agree that the status quo cannot be allowed to continue and will agree to refer Bill C-201 to the Standing Committee on Transport and Communications for full consideration of the problems that I have raised.

Mr. Ray Hnatyshyn (Saskatoon-Biggar): Mr. Speaker, I do not intend to take much time of the House. I listened to the comments made by the hon. member for Windsor-Walkerville (Mr. MacGuigan). His remarks underlined a particular problem with regard to transportation policy, which is operated to a large extent in this country under a quasi-judicial tribunal, the Canadian Transport Commission.

The hon. member for Windsor-Walkerville pointed out that while he deals ostensibly with an example in his locale, it opens up a much broader question for debate. I support the hon. member in asking that this bill be referred to the committee for the fullest possible examination. From that point of view, I support the bill going forward.

[Mr. MacGuigan.]

This gives us an opportunity to present the bill to the committee for the fullest examination of the circumstances regarding a loophole whereby transportation companies, often large corporations, may circumvent the principle of reasonable justice by making a re-application or new application under a particular set of circumstances. This could cause citizens in a particular locale who are affected by these decisions, some inconvenience and substantial expense. I understand and sympathize with the motives which caused the hon. member to bring forward this private member's bill.

There is a growing feeling of concern in many regions in Canada about the effectiveness of the operations of the CTC. I see the Minister of Industry, Trade and Commerce (Mr. Horner) is here. I do not say this in any partisan sense, but people in western Canada often feel that the resource or sensitivity of that administrative tribunal is not all that could be desired with regard to particular problems relating to transportation in various regions, specifically in western Canada.

Hon. members know that my party has suggested a re-organization of the CTC to provide for a western branch of that administrative tribunal. It would be responsible for considering matters relating to transportation in western Canada. We look forward to the CTC performing a more sensitive role with regard to transportation policy, using transportation as a tool for regional development in western Canada.

The bill brought forward by the hon. member for Windsor-Walkerville gives us an opportunity to consider the more technical loopholes to which he referred. This is an admirable opportunity for members of parliament to examine the rules under which the CTC operates and whether the CTC is adequately equipped to deal with local or regional problems. Over the course of the next few weeks and months, we could look at the operation of transportation policy where an application is required for a service, extension of service, or permission needs to be granted by the CTC.

I support sending this bill to committee, as do the members of this party I am sure, because it will serve a very useful function. I believe even the hon. member for Yorkton-Melville (Mr. Nystrom), who usually opposes things, will agree to having this bill go to committee. With those few words in support of the hon. member for Windsor-Walkerville, I will resume my seat.

Mr. Hugh A. Anderson (Parliamentary Secretary to Minister of Indian Affairs and Northern Development): Mr. Speaker, it is no surprise that whenever the name Canadian Transport Commission comes up in this House, whether in a private member's bill or any other context, I cannot sit back and say nothing. I am surprised that other members from Vancouver Island, the hon. member for Nanaimo-Cowichan-The Islands (Mr. Douglas), the hon. member for Victoria (Mr. McKinnon) and the hon. member for Esquimalt-Saanich (Mr. Munro) are not here. I assumed they would be equally interested. As I progress, I will show why it is of interest to those on the island.