

Transportation

o'clock we were considering an amendment submitted by the hon. member for Kindersley. For the information of the committee perhaps I should read the amendment. The hon. member for Kindersley moved:

That clause 16 (as amended) be amended as follows: In subclause (2) (b), in the line "may prejudicially affect the public interest in respect of", after the word "affect" insert the following words "the business of the complainant or". The line would then read: "May prejudicially affect the business of the complainant or the public interest in respect of".

The hon. member for Acadia.

Mr. Horner (Acadia): Mr. Chairman, as I suggested previously I have a few more words to say in respect of clause 16 and its proposed amendment. Actually there are two major clauses in the bill having to do with the discriminatory aspect of rate setting which this bill allows the railways to be involved in. In respect of new section 336 which was dealt with earlier, we were not able to convince the minister that it should be amended or that a broader definition should be drawn up with regard to the interpretation of "captive shipper" or a captive area. Since we have been unable to convince the minister that there should be an amendment made to section 336, it becomes more evident that clause 16 should at least be strengthened. I should like to say quickly that it certainly is strengthened by the minister's amendment, but the question remains whether it is strengthened enough in view of the fact that we were not able to amend section 336 in any shape or form.

I believe this amendment strengthens clause 16. It gives an individual a right to appear before the board in an effort to establish a prima facie case that the railways are discriminating against his business. This means that he would not have to establish there was discrimination against the public interest or the community in which he lives, or in half the province or in the whole province in which he lives, but merely against his business.

In order to clearly understand this one would have to go back to the old railway act and the principles enunciated in this transportation bill. The old railway act established the Board of Transport Commissioners in, I think, 1903. That board was set up because of a monopolistic atmosphere which prevailed across Canada in respect of the railways in those days. There were a number of specific clauses which outlined what the rail-

ways could and could not do. The act went on, in effect, to suggest to the railways that they could not increase their rates unless they established a prima facie case that their rates were in need of being increased to assure their remaining in business. The whole onus at that time was on the railways to present arguments to the effect that the rates should be increased, that the rates were not discriminatory and so on.

In this bill the whole onus is placed on the shipper. He must prove he is a captive shipper. In this case he must prove not only that he is being discriminated against by a mode of transportation but also that it is in the public interest that he and his business be not discriminated against. It is not good enough to prove that he himself is being discriminated against by a railway company; he must prove that it is in the public interest that he be not discriminated against.

I think one must look at the whole concept of this bill. In it the railways are being allowed to bring in any rate they like. The minister has suggested that clause 16 offers insurance. Actually it goes quite a bit further than the original bill. In looking at the original bill, I notice that there have been something like 65 or 70 amendments. In the committee hearings we urged the minister to do something about this discriminatory aspect of the matter. He came up with the suggested new clause 16 which took the place of old section 17 in the Railway Act. But once again one must ask oneself what protection is being given to an individual, a captive individual or an individual who is being discriminated against. It is all well and good to give the railways the right to set any rates they like, but we must also remember that the minister admitted there still are some errors where a monopolistic atmosphere exists. In the minutes of proceedings and evidence No. 23 of the committee on transport and communications he stated he had difficulty in reaching the conclusion that the industry would be better off if the railways were allowed to set their own rates. He admitted that he had difficulty in finding areas in which a person would be in a monopolistic position.

We have arrived at the position where the railways are to be given the right to set their own rates. We have also arrived at the position where we realize monopolistic situations exist and that there are areas where the railways may be discriminating against a shipper. We must ask what protection we are giving an individual shipper who finds himself in either a monopolistic position or in a