

Transportation

committee but who had not been a member of the committee hearing the application might sit on the commission as a member in order to give the specialized viewpoints of the committee to the commission? I would point out that the wording of this clause does not make it clear that this would be permitted. The wording contains the expression "otherwise than of that committee". Has the minister given consideration to the desirability of having a member of a particular committee, one who had not taken part in a hearing, making his services available as a member of the commission reviewing a case?

Mr. Pickersgill: That is exactly what should happen, in my opinion. I have now been given a little advice on the point raised by the hon. member for York South. I am told that in the opinion of the draftsmen, what is barred is a review by the same committee. But a member of a committee can be on the review board in his capacity as a commissioner, provided he is not prohibited by the procedures described in clause 19.

● (9:20 p.m.)

However, a member of a committee could be on the review in his capacity as a commissioner, if not prohibited by the procedures prescribed under clause 19. The commission would have the flexibility regarding a quorum under clause 19 which would enable them to set minima higher than the Railway Act, where needed, but which would not be tied down in law. It was intended to provide a review that would be representative of the modes of transport under the jurisdiction of the board.

The hon. member for York South shakes his head, and possibly the hon. member for Peace River did so also. I would not like to ask the committee to pass this clause tonight, but if we have covered all the points that hon. members wish to raise I would like the committee to stand the clause so that I can examine these points and see if further clarification of the language is necessary.

Mr. Pugh: It is a good idea that the minister review this clause. A review will take place where another mode of transport feels that it has not got a square deal, in licensing or some other matter, and it would seem that the point put forward by the hon. member for York South and the hon. member for Springfield is a good one, namely that all the members of the commission serve on the review board because the more brains on it the better would be the review.

In each case there would probably be two competing modes of transportation, if not more, and having all the brains of the commission acting on the review board would be the best approach. The larger the quorum the more in line would the review board be with our courts of appeal, and with our final court of appeal in Canada, which is served by quite a number of judges.

Mr. Bell (Saint John-Albert): What happens the order when it is under review? For example the commission will make a ruling or an order. When that order comes under review in accordance with the circumstances outlined in clause 17, is the order allowed to stand or is it frozen while under review?

Mr. Pickersgill: If the hon. gentleman does not mind I would like him to let that question stand with the clause, so that I may answer it after further advice.

Mr. Nugent: Under subclause (4) a review of an order, rule or direction may be asked for by certain specific people, whereas under subclause (5) those who may be heard at a hearing are a much broader class, including municipalities, provincial governments, etc.; but the provision for review does not give this latter group the right to ask for a review. I notice that under clause 18 an intervener can ask for an appeal, but I wish to ask the minister is there any specific purpose why this review procedure is available only to certain people who may ask for it?

Mr. Pickersgill: The purpose is not to review decisions between shippers and carriers. It is only to review decisions made with respect to one carrier that another carrier thinks are unfair. It is a very limited kind of thing. The important cases are not going to be disputes between carriers. They are going to be the disputes between shippers and carriers, and it is in that kind of dispute that municipalities and provincial governments, as is historically the case, would be most interested. In the case of that kind of dispute the ordinary rules of appeal that now exist will continue to prevail.

It was thought desirable that instead of having disputes between carriers brought in the first instance to the governor in council, and to the courts, it would be better for the commission itself to review them in order to save a certain amount of unnecessary difficulty.