

## Broadcasting Act

Mr. Jamieson: May I say that I believe this is extremely rare. I do not recall in ten or eleven years of being in the broadcasting business in Canada another incident comparable to this one.

We have a lot of unusual incidents in Kootenay West. Mr. Jamieson went on to say:

I believe that the board of broadcast governors has had this matter called to its attention, so I would not want to anticipate what the board's feelings are on this matter, because I do not know them.

I have discussed the matter with the chairman of the board of broadcast governors, taken the matter up with the Minister of Justice, had the matter drawn to the attention of the special committee on broadcasting and discussed it with several hon. members. I have fulfilled the promise I made to merchants and other citizens of Nelson and district. It is a complicated question in some respects and therefore I discussed it with competent legal authorities. After receiving their advice I spent considerable time getting the advice of persons in private radio and government agencies and then I introduced this bill.

This bill is to amend the Broadcasting Act (human rights abuses remedied). I like those terms. Reading from the explanatory notes of the bill:

Both the English common law and the French civil law recognize the doctrine that the right of the businessman or industrialist to do business only with persons of his choice is subject to restrictions based on reasons of good morals or public order: such is the case where the state takes exclusive control of a commercial field and grants a special privilege or licence in that field to the businessman or industrialist to sell, under monopoly or quasi-monopoly, to the public; the licensee then assumes definite obligations, including the obligation to sell to anyone who is ready to pay the regular price. See *Christie v. York Corp.*, (1940) *Supreme Court of Canada*, p. 139.

Various other cases and authorities are referred to. I continue:

In the *Christie* case, Mr. Justice Davis said:

"If there is to be exclusion on the ground of colour or of race or of religious faith or on any other ground not already specifically provided for by the statute, it is for the legislature itself, in my view, to impose such limitations under the exclusive system of governmental control of the sale of liquor to the public which it has seen fit to enact."

The Canadian parliament, for public convenience, interest and necessity, has by the Radio Act allowed the crown to grant monopolies by licence to individuals and corporations to operate broadcasting stations for private gain. Under the common law and civil law, therefore, such stations must sell advertising time without discrimination. In 1960, parliament confirmed this law by statute. Section 2 of the Canadian Bill of Rights applies to provide that the Radio Act and the Broadcasting Act shall not be so used as to violate the rights or freedoms of any citizen: e.g., freedom of speech or freedom of the press. Presumably, the governor in council might make regulations to control such excesses or the minister of transport arbitrarily remedy violations by revocation or

suspension of licence. Transport shall revoke forthwith the licence of such licensee and shall notify the licensee of the revocation so made.

I mention the following as getting at the principle of the bill:

Clause 1—For clarity, and emphasis of notice to the licensee, this clause provides, generally, that a licence is conditional upon observance of the Canadian Bill of Rights; and, specifically, that there shall be no discrimination by a licensee in providing commercial services to competitor applicants—e.g., freedom of the press includes liberty of circulation and distribution, as well as publication—and liberty of circulation and distribution includes the right to compete for advertising space on a government licensed advertising media—without discrimination because the applicant competes in the newspaper field with the broadcasting monopolist. Subsection 6(a)(i) is an adaptation of provincial public utility anti-discrimination law.

That subsection of the bill is an adaptation of provincial public utility anti-discrimination law as taken from the statutes of British Columbia. The subsection has been included for a number of years to prevent discrimination and refusal of service, and so on and has proved successful and operates well.

Subsection 6(b) follows the procedure—

**Mr. Speaker:** Order. I am sorry to interrupt the hon. member but his time has expired.

**Mr. Herridge:** In conclusion—

**Mr. McGrath:** Might I suggest that we allow the hon. gentleman a few more moments.

**Mr. Speaker:** The hon. member indicates that he is about to conclude. Perhaps hon. members will give the hon. member a few minutes in which to do so.

**Some hon. Members:** Agreed.

**Mr. Herridge:** I appreciate that courtesy, which has become necessary because of my having to give such a long historical sequence before I came to my legal argument. Anyway, upon violation, the Minister of Transport revokes the licence. The licensee, has a right to appeal on any question of law to the exchequer court which may suspend the revocation until the appeal is determined. I have received good advice and discussed this matter with counsel and I believe this bill is fair to all concerned and will remedy the abuse of which I have complained. I trust that I shall receive support from members on both sides of the house in my efforts this afternoon to strike a blow for freedom in defence of the Canadian Bill of Rights.

**Mr. J. A. McGrath (St. John's East):** Mr. Speaker, in rising to speak on second reading of this Bill No. C-32 may I say at the outset that I wish I could support the