

Competition Tribunal Act

We have heard a lot about the Government respecting the rights of provincial jurisdictions. Government Members are great on provincial rights rhetoric. They should accept the right of the provinces to continue to regulate their own public utilities and agencies. In fact, the amendment does respect the right of the provinces to regulate their own public utilities and agencies, so that there would be no requirement for the provisions of this Act to apply. It seems to us that if it were to apply, it would interfere in provincial jurisdiction. That certainly was the view of the New Brunswick Telephone Company, for example, which wrote to the committee.

At the moment, a court case on this very issue is proceeding. Is it really wise at this point in time to push ahead with this intrusion when the courts have not yet ruled on that case? It seems to me that that is another reason for this amendment to be supported by the House. We would urge Hon. Members to support Motion No. 3 which clearly respects provincial jurisdiction over regulatory authority for public utilities and agencies under their jurisdiction.

Mr. Bill Domm (Parliamentary Secretary to Minister of Consumer and Corporate Affairs and Canada Post): Mr. Speaker, there is absolutely no need for this proposed amendment to Clause 21. Clause 21 only provides that Crown corporations engaged in commercial activities in competition with other firms will be subject to the competition Act.

I can assure the House that regulated or regulatory bodies acting pursuant to valid federal or provincial legislation will continue to be exempt from competition law. The proposed motion runs the risk of bringing a great deal of uncertainty to this important area, and therefore I recommend that it be rejected.

● (1540)

Mr. Mike Cassidy (Ottawa Centre): Mr. Speaker, I heard the Parliamentary Secretary's point, and I do not think that his defence of Clause 21 is at all convincing. The Act, as it is proposed right now, would create the kind of uncertainty about which he spoke. The proposed clause would make the Act binding upon Crown corporations "in respect of commercial activities engaged in by the corporation in competition, whether actual or potential, with other persons". How can that be defined? In fact, it is similar to asking how many angels can stand on the head of a pin. Is a Crown corporation, which currently occupies some form of monopoly and therefore is not in competition at this time, not in potential competition should rules and regulations change to allow competition in the future? Is it perhaps not in competition because it is providing goods or services which are competing for the dollars of consumers in a particular province, dollars which might be spent on some other products, goods or services?

For example, let us look at Ontario Hydro and Hydro Quebec. We could start by saying that those corporations are not in competition with other persons, neither actual nor potential, because of the monopoly over hydroelectric generation in those provinces. On the other hand, looking at it from a

different perspective, hydroelectric energy is in competition with every other factor in the energy field. It is in competition with diesel oil for bus transportation in the cities. It is in competition with gasoline for the generation of power in rural areas. It is in competition with gasoline, potentially, if we consider the development which is now taking place in the area of electric automobiles. Certainly it is in very vigorous competition with natural gas and fuel oil in the case of home heating. Therefore, what is being stated here is that the federal Government is seeking to pass a Bill which would put it in a position to regulate, to prosecute, to fine heavily, and to influence otherwise the activities of Crown corporations such as Ontario Hydro and Hydro Quebec which have never come under combines regulations before because they have in fact been Crown corporations and have not been treated in the same way as private sector corporations.

We could put together quite a strong case. We are talking about the largest Crown corporations which in Ontario, for example, come under the regulation of the Ontario Energy Board. Quebec has its own mechanisms, and I am sure other provinces have similar mechanisms for controlling their hydroelectric utilities.

We are talking about businesses which are in the public sector for reasons every Canadian knows. We are talking about businesses which are extremely close to provincial Governments and are reviewed and surveyed very closely by provincial Governments since their heavy borrowings form a charge on the borrowing capacity of provincial Governments. For example, there are precedents in Ontario where the provincial Government has stepped in on the hydroelectric utility and said that it must cut back because it would not be given the borrowing authority at which it was looking. Now the federal Government is saying that it does not care about that. It does not have confidence that provincial Governments will be responsible in these particular areas. Therefore it intends to bring in another layer of regulation, and this will be regulation through the courts.

In view of the fact that they exercise a monopoly power, it can and may well extend to such things as whether or not the prices charged by a monopoly or by a corporation are in restraint of trade, are unconscionable or are unreasonable. We have a situation where potentially the federal jurisdiction could poke its nose into a very important area of rate regulation which has in fact been left in the hands of the provinces. If we are to do that, I would suggest that the Government, which talked about reconciliation with the provinces when it assumed office just two short years ago, had better sit down and start talking with the provinces. The Government should tell them that through the back door it is now giving the federal authority the power to interfere in rate setting by provincial utilities, be they telephone utilities in the western provinces or hydroelectric utilities in Ontario.

Let us take the telephone utilities in Manitoba and Saskatchewan as an example. Are they not in competition, either actual or potential, with CNCP Telecommunications for long