

Broadcasting Act

apply this clause, but I believe the principles should be there so that if there is infringement we have the ability to act.

Mr. Patrick Boyer (Etobicoke—Lakeshore): Mr. Speaker, it is perhaps a sign of how wedded people in our country have become to their televisions in this stage of our cultural evolution that an issue like this should generate the concern it does. The prospect of some interference with the amount of programming or the conditions under which programming can be received is something which now seems to register very high on the level of concern of a great many citizens.

Before I make my specific comments on this Bill, I would like to say to the Minister of Communications (Miss MacDonald) that I think the legislation itself, Bill C-136, is a major legislative initiative which deals in a very constructive and positive way with the shape of this country, a country which from its inception has depended upon communications. I think the direction that is being set down by this Bill is of fundamental importance for the country and reflects very sound principles.

The issue we now have before us is, in that broad context, a very narrow and specific one. Yet to those individuals who are concerned by it, it is no less important by virtue of its narrowness. For them, it is fundamental. I think it can be stated that there are two principles here. The first principle is different legal treatment of that which is the same, a result which some would describe as discriminatory, where homeowners who live in single dwellings are being treated one way and homeowners who live in condominiums are being treated in a different way.

The second principle, I believe, is one which pertains to the rule of law, the concept of open government, which is certainly something I believe our Progressive Conservative Party stands for. It is on record as favouring government by statute rather than government by regulation. A principle ought to apply here. It is one I am committed to, at least. It is that that which can be done by statute ought to be and only that which requires to be done by regulation made pursuant to the statute ought to be done in that fashion.

What is the issue? What is it that caused the Minister of Communications to send a clarifying letter to all who are concerned and who are in a state of agitation about this issue? What is it that has caused representatives from three different Parties to bring motions on the floor of the House seeking amendments? The issue is that condominium owners are being told that the new Broadcasting Act will result in condominiums being regulated as to the television stations they receive. The result would be that they would lose U.S. pay-TV signals they now pick up for free. Individuals who own satellite dishes would not be regulated by the new Bill. Thus, the Government is discriminating between condominium owners and individual homeowners. I think that is a fair statement of the issue that has brought these eight different motions before the House.

I have looked carefully at Bill C-136 and I see that the Government is seeking to ensure that the distribution of TV

signals to condominiums and groups of homes will continue to be subject to regulation in the new Bill just as they are subject to the existing Broadcasting Act of 1968. There is no change in this respect. Second, I see that private cable systems in condominiums and apartment buildings will continue to be exempt from licensing under certain conditions, just as they are now. At present, multi-unit dwellings must carry only those channels which are offered by the cable company that serves the same area.

A third feature of this Bill is that condominiums which descramble HBO, ESPN, and other U.S. pay-television signals without permission may, under certain conditions, become subject to legal proceedings for theft of signals brought by people who own the distribution rights of those signals.

• (1650)

That is fundamental and important to protect the intellectual property of those who create those signals, and that is the way the situation is at the moment. The indication I have been able to receive, both from the Minister's office and from CRTC officials, is that the Government does not intend to become involved in any such prosecutions in that area, leaving it in essence to a matter of private law between the creators of the intellectual property and those who are infringing it to be remedied in the courts.

The owners of rights and scrambled signals must make them readily available to all kinds of subscribers before they can sue for any form of damages. We come then to the fact that individual homes with satellite dishes will not be subject to the new Act but that group homes linked by a cable system, whether houses or multiple unit dwellings, will be subject to the new Act. Again, I think that brings us to the point at issue.

First, I would return to the principle that I mentioned at the outset regarding what is being called discrimination, but what I would refer to as different legal treatment, different treatment in the statute, of that which is essentially the same, homeowners who live in single dwellings compared to homeowners living in condominiums. I think all of us recognize that the development of condominiums over the past decade or so represents a major point of departure in concepts of property ownership.

It is not easy, in many instances, and the Hon. Member for York East (Mr. Redway) referred to his municipal experience, to provide for everything from garbage collection to the receipt of broadcasting signals in this unusual form of private property ownership that has developed in our system with its more traditional concepts of home ownership. However, the reality is that the condominiums are there and those who dwell in them are individual homeowners.

Now, the ironic result, and the one that I think we should look at to test the way this legislation, if amended, would work, is that if a condominium building association with its, say, 350 owners, decided to put 350 satellite dishes on the ground and link each to each home or unit in that building, then the dishes