

Broadcasting Act

Mrs. Sheila Finestone (Mount Royal): Mr. Speaker, I was interested in seeing the number of Members of the House who were interested in standing and talking to this particular grouping of amendments. The amendments came from a number of people and covered not one but two particular areas of concern. The first related to condominiums and apartment buildings, and the second related to a definition of the term "public" under the Bill, as neither public nor private are clearly defined under the Bill, and there is a change from the old Act.

In legal parlance, one knows that if there is a change in terminology in a Bill there is a reason to make that change. You just do not lightly change words which have a legal history under the law. If you look at Motion No. 12 first, I would like to point out that there was a change in the original Act. The definition of "broadcasting" under the 1968 Act indicated that broadcasting meant any radio communication in which the transmissions were intended for direct reception by the general public. The general public has had, over the course of history in the last 20 years, its mechanism of identification of that terminology. The Minister has changed the terminology in this new Bill, which states:

—any transmission of programs, whether or not encrypted, by radio waves or other means of telecommunications for reception by the public—

Not the general public. It continues:

—by means of broadcasting receiving apparatus, but does not include any such transmission of programs—

The Bill goes on to state the concern that has been expressed, both my concern and that brought to our attention by the Canadian Bar Association, indicating that we need some refinement on the term "public". I therefore have proposed an amendment that Bill C-136 be amended in Clause 2 by adding immediately after line 13 at page 3 a definition of "public". It would say:

"(4) For the purposes of this Act, persons who occupy apartments, hotel rooms or dwelling units situated in the same building are part of the public and a transmission intended to be received exclusively by such persons is a transmission for reception by the public."

If we do not do that, there is a number of questions which go unanswered. If programming is sent only to tenants of a particular apartment building, would they qualify as reception by the public? If programming is directed only to persons in an institution, such as schools, universities, hospitals and the like, would that be considered reception by the public? If a service is directed only toward a particular group of users, the brokerage industry or people who signed up for an educational class, would that be considered reception by the public? What would be the size of that group? In a single household where there is a series of sets, would that also become the public?

Because it is not defined, I would strongly recommend positive consideration on the part of the Minister to clarify that. I would sincerely hope that that clarification is the same wording that is found in the copyright Bill, under Bill C-130, the free trade legislation of this House. We would at least have wording that means the same thing in more than on place so

we do not have legal interpretation and a jumping around. I would like to recommend that the motion I placed on the table with respect to the definition of "public" be given favourable consideration and be accepted by the Minister.

• (1640)

With respect to condominiums, I must say that it was an interesting experience to have members on the government side of the House calling me on a constant basis asking if I would bring this amendment forward in their interest.

Outside one or two members of the government Party, there did not seem to be comfort in arguing with the Minister. The Minister was forthright and in a sense spoke to the issue quite clearly in the legislative committee. She told us not to worry, that we did not have to be concerned. She says that the rules of the game are that we have always been exempted and we are in no changed position, that our circumstances before the new Bill and our circumstances now will allow for exemption. She pointed out that nothing in Bill C-136 would change the situation of U.S. condominiums which install a roof-top antenna. There are no provisions that would cause the CRTC to make its exemption criteria more rigid. Indeed, the Bill expands the commission's ability to use its exemption power. Condominiums which are presently exempted from licensing should expect that they will continue to be exempted.

That caused me to have additional concern. That is why I was pleased that my colleague, the Hon. Member for Winnipeg—Fort Garry (Mr. Axworthy) and other Members of this House have suggested the Minister put into law the things she has said in public, in the legislative committee, that there need not be a worry on the part of these people.

Clause 9(2) of this Bill would allow the CRTC at some point in the future, perhaps, to change its mind with respect to condominiums and apartment buildings. We know about the Lount decision. We know the federal courts have already looked at this and I think there should be clarity in the law. I believe a Bill at all times should state clearly the Government's intent. The Minister said this was her intent. She should be very comforted that this is what she would install and put in place in the law.

I would like to ask the Minister to accept the amendment which reads:

For the purpose of this Act, a multiple dwelling unit grouped as a condominium complex is deemed to be one permanent residence, such terms and conditions as the commission deems appropriate.

Those last lines are key because the commission can essentially order the priority, ensure there is compliance with the will being expressed through broadcast policy in this Act, that there is no allowance for going outside the principles of this Bill and allowing the kinds of supposed misdemeanours that are occurring in many of these condominiums. That would give the kind of latitude that is required. I sometimes wonder if we are going to have enough police force in place actually to