

*Competition Bill*

assistants of earlier Liberal regimes? Where are the personal nominees of prominent members of the government? I do not propose to put names to each of these categories, but if we were adept at ESP at this moment, can you just imagine the catalogue of names and faces flashing through people's minds as I asked those questions. Some late starters may still be showing up. Therefore, let us have none of that nonsense about intrusion by the Conservatives into areas where angels fear to tread. The Liberals are no angels because there is no area where they fear to tread.

I have been a civil servant, a public servant. My role, as I conceived it, was to serve the public, as the name given to my employment indicated. The manner in which I did that was to advise the government in the area of my professional competence, namely foreign affairs. I could formulate suggested lines of action, suggested policies and even urge that some of these policies be adopted. However, I was not occupying an executive role in the largest sense of that word. I could not put into execution my recommended courses of action, the advice I offered. One time I recall being sternly reprimanded for having fired a cook. I was not even permitted, though head of post at the time, to execute even that sort of a recommendation.

● (1550)

There are limits within which public servants can act. The line is not easy to draw but a good public servant, properly motivated, knows where it lies. In the administrative field over which he has been given jurisdiction there should be no need to question his executive powers, provided, of course, he has been properly chosen for the job on the basis of proven competence. If, however, he is allowed to assume he is more powerful than he actually is, he may draw the line in the wrong place. He is then obviously not fitted for the job to which he is assigned. He can act on his own if he is acting within an area which has no political implications. He can act in the political area, however, only when specifically instructed to do so, and instructions in this instance must issue from the servant's political master, his minister. But here, in the bill before us, is a case of parliament being asked to approve a measure which will authorize the government to deprive itself of a power which it ought to retain, power to decide whether this or that activity ought to cease or be allowed to continue in a modified form. This is the area of the public marketplace.

Why do I say the government should retain the power to act in this area? I take this view because I believe in maintaining the power of parliament to hold governments responsible for their actions, and unless this power is retained, the government itself cannot be called to account. Let us consider this measure more closely. In clause 12 we find such expressions as "The Commission may order...", "The Commission may make an order prohibiting...", "The Commission may direct that no measure be taken in Canada...", "The Commission may by order direct..." and so on. Then, in the proposed amendment to 31.1, the bill indicates quite clearly that failure to obey an order of the Commission becomes an actionable offence, because 31.1 makes provision for collecting damages from those who have failed to comply with an order.

[Mr. Munro (Esquimalt-Saanich).]

Perhaps I might read from the bill itself at page 14:

Any person who has suffered loss or damage as a result of conduct contrary to any provision of Part V, or the failure of any person to comply with an order of the Commission or a court under this Act may... sue for and recover from the person who engaged in the conduct or failed to comply with the order...

There is no doubt but that the government is striving to empower a body of appointees, backed up with public servants, with authority to make their decisions stick, and this in areas of the most complex economic and political interest, without at the same time making provision for the agency responsible for those decisions and orders to be answerable to this House—not even through a minister, if I read the bill correctly.

Are we sure that this is the way in which we want to bring harmful competitive practices under control? No one questions that from time to time such practices are being followed. But is this the way in which we want to deal with the situation? Let us be sure on this point before we give approval to the measure before us.

I should like to quote briefly from an editorial which appeared this morning in the *Toronto Star*, dealing with this very subject.

Amendments to the Combines Investigation Act now before parliament would give the Restrictive Trade Practices Commission vast new powers to regulate all business.

Including, presumably, the football business.

The problem is that the commission, now an advisory body to the government, would function as an arbitrary authority with virtually no restriction or precise guidance from the law. In effect, it would make its own law...

No businessman would be able to tell from looking at the amendments what constitutes adequate competition. If the bill passes in its present form, the philosophy of the people appointed to the Commission will determine what the phrase means, and until that meaning is spelled out by a series of decisions, no one will be able to determine what he has to do to obey the law. That is the wrong way to go about things.

I agree fully.

The rule of law requires that parliament, not an appointed Commission, determine the public interest, which in this case means providing guidelines as to what is meant by adequate competition. If the public does not agree with the law, then in an election it can replace the people in parliament; but if it does not agree with the rules of the men on the Commission, the public has no recourse.

The last paragraph of the editorial is also worth putting on record. The minister is not in the House, but may I quote?

There are good intentions in Gray's bill and the consumer needs better protection against unscrupulous operators in business. But it is wrong to try to achieve this by infringing basic principles of justice in a free society. The ordinary citizen has a right to know what is expected of him under the law, and parliament has an obligation to spell out what the law means rather than delegate that right to an appointed body.

This, Mr. Speaker, is the burthen of my argument. Once it has conceded this point and granted to the Commission the power the bill would have us confer upon it, parliament has completely lost control of that Commission except by way of amendment of the Commission's statute, an initiative normally reserved to the government in power. Parliament, as such, will have been excluded from any further voice in the matter.