

Broadcasting Act

Then, the Minister of Justice, after receiving the complaint may report to the Minister of Transport who can revoke the licence of the radio station.

It is true that in paragraph (d) the radio station may appeal to the exchequer court. As the hon. member for Kootenay West was saying, this was a legitimate complaint and if this bill had become law then station CKLN would have lost its licence because of its failure to advertise this newspaper. Let us suppose it was not a legitimate complaint or at least the radio station believed it was not a legitimate complaint. Then, the station has the right to appeal to the exchequer court. This is all very fine, but the person launching the appeal must pay a solicitor and pay the expenses of the appeal. Unless the court exercises a discretion, however, that licence has lapsed. Sometimes litigation can take from four to six weeks and sometimes judges reserve their decision so that the time may be considerably longer. This radio station might be off the air for a whole year and the hon. member for Kootenay West would not be heard by his constituents for a whole year. This would be particularly unfortunate if it were an election year.

However, under clause 1, paragraph (d) the court can exercise a discretion and allow the station to continue broadcasting. This is only a discretion and it might not be exercised. My first complaint with respect to the bill, therefore, is that it gives too much power to the minister. When you give power to a minister by legislation it really means you are giving power to some officer of the department to exercise a discretion. We often see how that discretion is exercised and sometimes it is not exercised judiciously. I would oppose the bill on that ground. There is also the fact that the radio station or television station would have to appeal then to the exchequer court at their own expense at a time when they may be off the air.

In so far as the bill of rights is concerned, I am happy to learn that the new leader of the N.D.P. group holds the bill of rights in such respect. This is one thing this government has done. The bill of rights has spelled out, for the first time, that we are to have freedom of the press. This is written right in the statute itself. I believe this provision illustrates the fact that the Conservative party and this government have always stood for freedom of expression. I recall that some years ago, and I am sure the hon. member for Kootenay West recalls this, the Social Credit party was elected to power in Alberta and they tried to control the press. They introduced a bill in the legislature which became law but was later declared ultra vires by the Supreme Court of Canada.

The hon. member for Kootenay West referred to Mr. Justice Davis of the Supreme Court of Canada, and cited his judgment to which reference is also made in the headnote of the bill itself. When the hon. member quoted Mr. Justice Davis with approval, he was really quoting from the dissenting judgment of the Supreme Court of Canada. The Supreme Court of Canada stated in that case very carefully that everyone has a right to decide what business he wants or what business he will reject. The effect of the judgment was to extend what has been the common law of the Anglo Saxons for many years into the field of law covering companies that operate by licence.

Then, I have to agree to some extent with the remarks made by the hon. member for St. John's East (Mr. McGrath). Supposing a radio station did not want to advertise *Hush* magazine, or whatever it is called. Surely, they would have that right. Someone may come along and ask them to advertise "Lady Chatterley's Lover" and, although the Supreme Court of Canada has said it is all right for Canadians to read, perhaps the radio station would not want to lower its standards by advertising that kind of material. I do believe, therefore, that this would be a third ground for rejecting the bill. A person could make his motives look legitimate, convince an officer of the department that such was the case, and cause a station to lose its licence. In consequence, the station would have to appeal. Then the onus is on them to prove their innocence and that, of course, is contrary to our understanding of jurisprudence.

Again, I should like to congratulate the hon. member for Kootenay West because I agree with the spirit of the bill. However, the way in which the bill has been drafted has caused me to raise the points I have raised and I believe it may cause more harm than good. In other words, you cannot cure an evil by enacting something worse.

Mr. G. H. Aiken (Parry Sound-Muskoka): Mr. Speaker, in making a few remarks on this bill I should like to start out by saying that I agree with the principle that if any person or body has been granted a monopoly that monopoly must be used in a fair and equitable manner. This principle that I have stated must specifically apply to competitors of that monopoly; but this is a very difficult situation because if you have a monopoly, who are your competitors? I submit that you do not have any if you have a monopoly such as is set forth in this particular bill.

I know that the hon. member for Kootenay West foresaw this difficulty because he went