

*Competition Tribunal Act*

way in which competition benefits the consumer is by creating a competitive situation where there is greater efficiency in the market-place. Of course, with greater efficiency there is greater productivity and greater industrial growth. All those things create the environment for competition which will benefit the consumer through lower prices, better quality goods and more and wider choices.

We have had competition legislation in the country for a long time. It is nothing new in Canada or in other countries around the world. In fact, I am told that we have had competition legislation since about 1889, a long time back. The modern legislation, the present Bill which is in force at the moment, with some modifications is called the Combines Investigation Act. It was originally passed back in 1910. The piece of legislation which we have for controlling mergers and monopolies is an old one. We have found that as time has gone on it has not been doing the job it was put in place to do. As we look at what has been happening in the market-place, we see that more and more mergers and monopoly situations have taken place and have come into effect in recent years than ever before. At the time the original Combines Investigation Act was passed, there was very little in the way of corporate mergers. As time has gone on, there have been more and more of them. Between 1945 and 1949, something like 50 corporate mergers per year were taking place. By 1960, that had increased very substantially from 50 to some 250. Between 1977 to 1984, just about 500 corporate mergers were taking place each year. Since 1975, the 100 largest companies in the country have been involved in more than 150 corporate mergers or takeovers. More than 25 per cent of the total corporate growth of those companies has come through a form of corporate mergers, corporate takeovers and amalgamations rather than through the traditional form of increasing sales through the market-place.

The legislation we have had in place to monitor and to control merger and monopoly situations during this period of time has been a criminal type of legislation. It has been a criminal type of law. It has made illegal certain types of mergers and certain types of monopolies. A merger where a person or a company acquires any interest in another business which lessens or is likely to lessen competition to the detriment of the public is illegal. A monopoly where one or more persons or companies have substantial control of some area of the market and which operate or are likely to operate to the detriment of the public is illegal too.

● (1740)

The problem, of course, has been in trying to enforce those provisions. Because those provisions are criminal types of provisions, the criminal law is generally applicable to them. The first criminal law provision applicable is the whole matter of the standard of proof.

You know, Mr. Speaker, that there is a difference in the standard of proof between civil offences and criminal offences. In civil offences the standard of proof is considered to be the

balance of probability on the evidence, but in a criminal offence, the standard of proof is the question of beyond a reasonable doubt. That is where one of the problems has come in in trying to enforce the current legislation effectively. It has been criminal in nature and, therefore, in order to establish that an offence has occurred, an offence of an illegal merger or an illegal monopoly, the Government under the Combines Investigation Act has had to try to establish that this has happened beyond a reasonable doubt and that there is no reasonable defence that can be offered by the accused company or accused person.

In addition, because it is criminal in nature, the whole procedure has been a slow one. It has been a costly one and it has been procedurally cumbersome. Because of all these things, the present law has proven to be completely ineffective in dealing with merger and monopoly situations.

The culmination, I suppose, of the situation came in 1976 with the K.C. Irving case. After that time, the Restrictive Trade Practices Commission under the authority of the Combines Investigation Act threw up its hands and since that time has been virtually completely ineffective in dealing with merger and monopoly situations in Canada.

It was obvious at that time, and a number of my hon. colleagues in this House were here and have pointed it out this afternoon in some of their comments and remarks, that we needed to make some changes in this legislation if it was to be effective. A number of attempts were made to introduce new legislation to try to make changes to make the legislation effective in order to control mergers and monopolies.

In 1977, for instance, a Bill C-42 was introduced by the previous Government. That did not solve the problem. In fact, Bill C-42 never got through Parliament. In the same year, the Government of the day introduced another Bill, Bill C-13, which also did not get anywhere. In 1984, there was a third attempt at introducing legislation which would amend the Combines Investigation Act and put some teeth into the procedure to control mergers and monopolies. That was Bill C-29 at the time and that, too, never passed through Parliament nor did it go into effect.

Finally, as a culmination of the frustration that has gone on, at least since 1977 and before, and the attempts that have been made successively to try to put something in place, to try to introduce some legislation which would be effective and which would generally meet with the approval of the Canadian people, we have Bill C-91 before us today.

One of the previous opposition speakers said that it was important the Government show a will, a direction and an ability to carry through with this legislation and its intent. I agree with that. It has taken a long time for us to get that will and to get that intention to carry through, in fact since 1977. Now we are at a stage where, apart from criticisms of the Opposition, which is a natural kind of criticism, and apart from the criticism of the odd other commentator, generally there is an acceptance across the country that we have a piece