

Postal Services Continuation Act, 1987

Under the med-arb procedure provided for in the legislation before us today, the two sides to the dispute, while party to an arbitration proceeding, still have the opportunity to carry out the negotiation process. The mediator-arbitrator combines the skills and functions of the mediator with an ultimate mandate to make a final and binding decision on all issues which cannot be mediated to resolution. The influence of the mediator-arbitrator on the outcome of negotiations is more than that of a conventional mediator because the parties are aware that, if they fail to reach agreement, the same person will be switching roles to that of arbitrator and rendering a binding decision.

The process of mediation-arbitration has been used on a limited basis in the federal jurisdiction before, and has proven its worth as one of the more promising alternatives which exist for the resolution of collective bargaining disputes. In this particular instance, we can only hope that it will prove effective in prompting Canada Post and CUPW into coming to grips with those issues which are preventing the achievement of a new collective agreement. In addition to having the opportunity to meet with the parties and gain a full appreciation for the issues and the distance separating them on specific items, the mediator-arbitrator appointed under this legislation will have the benefit of the extensive evaluation of the dispute already undertaken by conciliation commissioner Claude Foisy and fully documented in his report.

In conclusion, Mr. Speaker, I would reiterate my concern that this Bill, the *Postal Services Continuation Act, 1987*, receive prompt passage by Hon. Members so that the confrontation between Canada Post and CUPW can be terminated as soon as possible. Critics of back to work legislation often suggest that one of the more dangerous consequences of legislative intervention in the collective bargaining process is the potential which is created for disrespect of the rule of law. For any legislation to be respected, it must be perceived as just and fair. While I personally find the requirement to introduce this particular legislation to be unfortunate, I applaud the enlightened approach which the minister of labour has adopted in the Bill with regard to the dispute resolution mechanism. Not only does the proposed legislation provide the parties to the dispute with one last opportunity to resolve their differences themselves, but the appointment of a mediator-arbitrator requires the parties to approach the process in a constructive and responsible manner, to ensure full consideration of their respective contract proposals.

I urge all Hon. Members to support the *Postal Services Continuation Act, 1987*.

Mr. Guilbault (Saint-Jacques): Mr. Speaker, I have a question for the Hon. Member for Montreal—Mercier who has just concluded her comments. At the end, she mentioned that the Bill provides harsh penalties for those who are guilty of offences under this Act. I would like to ask her a question about clause 11(2) which provides for additional punishment in the case of certain offences. This clause states that no

individual who is convicted of an offence under the Act that was committed while the individual was acting in the capacity of an officer or representative of the employer shall be employed in any capacity by, or perform any work for, the employer at any time in the five years immediately after the date of the conviction.

Would the Hon. Member tell the House whether or not she finds such a penalty reasonable? Does she think it is reasonable to impose a further sentence to a Canada Post or a union officer already fined for having violated that legislation—because those five years are a further punishment, are they not? Is she not concerned that might go against the provisions of the Charter of Rights and Freedoms? Would she not have some concerns about that clause of the proposed legislation? Would she not be concerned about the future of a senior employee in Canada Post who could not be permitted to resume his job for a five years period? What will he do then to earn a living? He could not seek any equivalent job within any comparable organisation since Canada Posts holds a monopoly in Canada. What does she have to say about that? Is she in favor of that clause or would she rather have it amended or withdrawn?

● (1310)

Mrs. Jacques: Mr. Speaker, in answer to my colleague, I say that Clause 11 is not contrary to the Charter of Rights and Freedoms. Of course, if a person is guilty of an offence under the act, I find it reasonable and just to deny that person the right to go back to work, to do the same work, for five years. And I am not worried because, I do not think union leaders and representatives would have any difficulty finding another job in another sector, even if the Corporation is a monopoly as you said earlier. I think that to ensure compliance with this act and with the legislative arrangements a government will make, we must provide for this kind of penalty. If we do not, people will consider that act as frivolous and will not abide by it.

Mr. Deputy Speaker: The Hon. Member for Gatineau (Mrs. Mailly) for a question or comment.

Mrs. Mailly: Mr. Speaker, I wish, first of all, to congratulate my colleague who stated very well why she supports that Bill. I would like to ask her a question related to a comment made by the Hon. Member for Saint-Jacques (Mr. Guilbault) in his speech. Considering that he just asked her a question, I think it would be only fair if I could get some clarifications from her. He talked about the remarks made by our colleague, the Hon. Member for Richelieu (Mr. Plamondon), concerning the use of replacement workers during a strike. I would like her to answer my question about the Quebec legislation. There is a provincial statute which prohibits the use of replacement workers. This is why, in Quebec, people tend to think it is illegal to use replacement workers during a strike. However, if