

Senator Walker: When you want to be generous in the will, and there is no validity, that is the way you put it.

The Chairman: You are generous but without validity.

Now, this is not too far away from the suggestion Senator Cook has made about the statutory reservation.

Senator Molson: Mr. Chairman, may I ask the minister a question? He was saying one of the problems of regulating industries is that there is a large number of them and it creates a general problem. Well, we understand how complex it is. Fundamentally we are very sympathetic with the problem.

My question is: Why do we include these regulated industries in the first phase? When the minister says that an in-depth study has to be made, and in the course of some months there will be some decisions made as to how to cope with these matters, why do we start out by having all these matters, why do we start out by having all these problem children included and then conduct studies to see if some of them should be excluded? Why are regulated industries not omitted in the first instance, and in phase two brought in if there are reasons for it? It appears to me that you are building the problem first in order to then attack it and try to solve it. Or am I wrong?

Hon. Mr. Ouellet: Mr. Chairman, if I understand what is being said, it is because we have included under the Combines Investigation Act services which were not included under it before. Canada is in fact the last occidental country to include services. They have been included in the United States for years. They have been included in most major European countries for years. By bringing services now under the umbrella of the Combines Investigation Act, you create a sort of new surveillance, if you will. Some organizations could easily escape the combines grip because they are strictly regulated.

Senator Flynn: Properly.

Senator Beaubien: Properly regulated.

Hon. Mr. Ouellet: They are the creations of a provincial government and it is established they are not coming under the Combines Investigation Act. Others have to be looked at for precision. That is the case we are confronted with at the moment. Basically, we have said all services should be included.

The Chairman: I am trying to get an appreciation of what you meant when you said that you would undertake thus and so. We are still talking about it, so obviously we have not a framework set up as to what undertaking you are prepared to give.

Hon. Mr. Ouellet: Well, let me put it this way. Bill C-2 will be passed. I will not set a date, but let us say it will be passed, and you say you are hopeful that you will be able to complete your work before Christmas. Fine. Then Bill C-2 is passed. Then there is royal assent and then promulgation of the act. The promulgation of a certain part of the act will come within a matter of weeks. More particularly, in the service section, we have said that we will give sufficient time to the service industry to prepare themselves because of the new legislation. This will be a period of three, four or possibly five months. We might not promulgate this section until we have been able to settle clearly the question of whether or not the CTC is doing this monitoring and this in-depth decision making. If the mechanism is in place within the CTC to do the in-depth

evaluation, it is quite clear the Combines Investigation Act does not apply. We could then promulgate it without difficulty.

The Chairman: Here are some of the difficulties I see. We may as well deal with them right now because this is the place for it. As and when any terms are put in the bill regulating the time at which promulgation may be made in relation to services, and the decisions that might be reached in that time, we would want to know something about it. We would not want to be shut out of the process. If there is no legislation at that time we are shut out of the process. In other words, the government resolves the problem and we have no authority to say anything about it.

Hon. Mr. Ouellet: Except that the questions of regulated industry will come to you through phase two of the Combines Investigation Act and we will be addressing ourselves to these very questions.

The Chairman: You are suggesting, then, that when phase two comes before us we can go back, look at and revise phase one?

Hon. Mr. Ouellet: No.

The Chairman: I do not think we can.

Senator Laird: That is the danger.

Senator Walker: The minister means adding to it and if that is so and in the meantime phase one is to lie in limbo, why not eliminate phase one in the meantime and do phase one and phase two together?

The Chairman: Except, Senator Walker, if you say that phase one shall not come into force until phase two is ready. I wished simply to point out to the minister the Aeronautics Act, which has been considered by the Supreme Court of Canada before and after that court became the court of last resort in Canada. Therefore, in effect, it is acknowledged as being the undoubted authority in the field of aerial transportation. I find in the Aeronautics Act that the commission may under the provisions of section 16.(1):

... issue to any person applying therefor a licence to operate a commercial air service in the form of licence applied for or in any other form.

Section 16.(2) continues:

No such licence shall be issued in respect of a commercial air service, owned, leased, controlled or operated by any person who is engaged in the transport of goods or passengers for hire or reward by means other than aircraft unless the Governor in Council is of opinion that it is in the public interest that such licence be issued.

So the rule we used to apply with respect to motor transportation in order to qualify for the various classes of licences issued in a province was that the operation must be for public necessity and convenience. Now, that is a form of public interest.

Section 16.(3) reads as follows:

The Commission shall not issue any such licence unless it is satisfied that the proposed commercial air service is and will be required by the present and future public convenience and necessity.

So, we have the test of public convenience and necessity, which is a form of public interest, this being the authority