Court of Canada rejected an application by Gulf which would have authorized it to produce the documents.

Most of the litigation between Westinghouse and the utilities with whom it had broken contracts to sell uranium at low prices have also been settled out of court. The same applies to most of the suits by utilities against Gulf oil. Litigation between Gulf and United Nuclear Corporation in New Mexico is still before the courts.

In Canada, the inquiry into the marketing of Canadian uranium under the Combines Investigation Act, which was initiated by the Minister of Consumer and Corporate Affairs in 1977, is still in progress.

NATIONAL HOCKEY LEAGUE CLEARED OF ALLEGED ANTITRUST LAW VIOLATION

The United States District Court for the Eastern District of New York has dismissed a private action claiming $30 millions treble damages against the National Hockey League, member clubs constituting the League and individuals associated with the clubs, for an alleged attempt to monopolize or monopolization in violation of S. 2 of the Sherman Act or conspiracy to injure the plaintiff (Shayne v. National Hockey League, 71 C 1537, Dec. 22, 1980).

The case involved the grant by the N.H.L. of a hockey club franchise for Long Island in 1971. At the time the plaintiff had an option to acquire a World Hockey Association franchise for the New York City Metropolitan Area, which he later sold. He charged that the N.H.L. had monopolized the business of professional hockey and, in particular, conspired to prevent him from forming his own W.H.A. club.

Judge Neaher of the District Court found that negotiations for the N.H.L. franchise had been commenced several years before the formation of the W.H.A. and on the initiative of Nassau County officials, that both sides had acted in good faith and that the plaintiff had not demonstrated the requisite experience or financial capability to warrant serious consideration as a lessee for a professional hockey program in the County's Coliseum.

Despite the good intentions of the N.H.L. in granting the franchise, there remained the questions of law (1) whether the N.H.L. possessed monopoly power in the relevant market and (2) whether its grant of a franchise for Long Island, despite good intentions, had the effect of unreasonably restraining or preventing the anticipated competition of the plaintiff.

The Court rejected a contention by the plaintiff that the monopoly power of the N.H.L. had been conclusively demonstrated in a Philadelphia case (Philadelphia World Hockey Club Inc. v. Philadelphia Hockey Club Inc. et al., Civ. A Nos. 72-1661). In that case the plaintiff's motions were granted for a preliminary injunction barring N.H.L. clubs from enforcing the "reserve clause" in their player contracts in order to prevent players from contracting to play with the W.H.A. Judge Neaher stated:

> "No final judgment was ever entered in the Philadelphia litigation and therefore the findings have no collateral estoppel effect in this action. More importantly, the asserted monopoly power of the NHL in that case was limited to its control over players who were sufficiently talented to play major league professional hockey. As Judge Higginbotham noted, 'the WHA does not claim that the NHL has monopoly power to prevent the awarding of WHA franchises in a particular territory...'"

Regarding the definition of the market, the plaintiff, following the Philadelphia case, contended it was the whole area of play in Canada and the U.S. The defendant argued it was the New York franchise area, which had six arenas reasonably suitable for professional hockey. Judge Neaher found it unnecessary to decide that, pointing out that "however the relevant market is viewed the critical element which is absent is unreasonable conduct on the part of the defendants." He stated:

> "A wrongful exercise of monopoly power cannot be inferred from mere acceptance of a business opportunity thrust upon the NHL. The preeminence of the NHL in professional hockey made it the logical choice of the Nassau County officials who were responsible for attracting a hockey team that would appeal to sophisticated suburban sports fans and generate the patronage and revenue needed to insure the financial viability of the Coloseum."

The Court declined to apply the rationale of Alcoa (United States v. Aluminum Co. of America, 148 F 2d 416 (2d Circ. 1945)) as had been done in the Philadelphia case. Judge Neaher said:

> "...plaintiff has sought to draw a parallel between a professional sports league and the internal expansionist polices of a huge industrial complex, as was done in the Philadelphia case. Judge Higginbotham in that case wholly embraced the rationale of Alcoa in concluding that the NHL's continuing policy of expansion, tied to increasing public

> interest in hockey, was evidence of its intent to maintain control over professional hockey; and that its control over the supply of players was maintained through improper means, namely, the reserve clause and interlocking agreements with minor professional leagues which developed players...Plaintiff would have the analogy extended to control over suitable arenas for professional hockey.
>
> "First, it is not clear that the Alcoa rationale is appropriate to the rather unique business of professional team sports, in which the measure of success is an increase in the number of teams in a league and consequent expansion to additional playing locations.
>
> ......
>
> "Second, it is clear in this case that the NHL was not in fact competing for an arena with the WHA or plaintiff. Rather, the competition was between plaintiff, on the one hand, and the two or more groups who were endeavoring to bring professional hockey to the Coliseum under the NHL banner with the ardent backing of the Nassau County authorities who controlled it."

U.S. JUSTICE AND AGRICULTURE DEPARTMENTS TO DEVELOP ANTITRUST GUIDELINES FOR AGRICULTURAL MARKETING

The U.S. Department of Justice announced on November 28, 1980 an agreement with the Department of Agriculture to develop guidelines to foster compliance with the antitrust laws by the more than forty agricultural marketing committees organized under the Agricultural Marketing Agreement Act of 1937.

The agreement apparently stems from concern about activities of the Raisin Administrative Committee (RAC). Steps will be taken by the Agriculture Department to avoid involvement by the RAC in collusive pricing and distribution arrangements with foreign producer groups. The Department will move to modify its regulations covering RAC's participation in international efforts to control world raisin markets. It will also prohibit the use of RAC funds for attendance at international meetings called to consider anti-competitive joint conduct among world raisin producers.