

Criminal Code

Thursday to try again. He did not return to the House on Friday. He then went rushing off to British Columbia and bitterly attacked the Member for Burnaby because he did not co-operate with the Government. What horse feathers, what absolute nonsense on the part of the Minister of Justice. He and he alone must accept responsibility for the fact that this Bill was not brought forward until two days before the House rose this summer.

I said that the approach taken in this Bill is wrong. I would like to indicate why we in the New Democratic Party believe that this approach is wrong, but before I do so I want to indicate very clearly that all of my colleagues are gravely concerned about the reality in residential communities across the country. No one has worked harder and spoken out more eloquently on behalf of the concerns of residents of the Mount Pleasant area than my colleague, the Member of Parliament for that area, the Member for Vancouver East (Ms. Mitchell). My colleague will be speaking later in the course of this debate. We are aware of the fact that these residential communities are in an intolerable situation at the present time.

● (1200)

I received a letter from a woman who lives in an apartment on 23rd Avenue in Vancouver. She talked about the fact that she recently discovered a prostitute conducting business in the laundry room of her apartment building and her son being woken up at 3 a.m. on several occasions by arguments and fighting taking place outside his window at 8th and Fraser as well as cars screeching throughout the neighbourhood and fights taking place in the street between customers and clients.

No Member of the House is prepared to accept that kind of activity in residential communities, whether it be Mount Pleasant, the west end of Vancouver or anywhere else in the country. However, the question that arises is, what is the appropriate response? While there must be a response, of course, what is the appropriate response to this serious problem? More important, what about the Bill that is before the House at this time? Does it in fact constitute a measure that is an appropriate response to what is a serious problem in residential communities?

As has been stated, the Fraser Commission conducted an extensive study into the question of pornography and prostitution and examined a series of proposals, both short-term and long-term. It was a comprehensive package for dealing with what all of us recognize is the degrading practice of prostitution. It is a practice which depersonalizes sexual relations. However, when one examines the approach taken by the Fraser Commission, it becomes immediately clear that the Bill before the House today fundamentally rejects the entire thrust of the recommendations of the Fraser Commission. I say that for several reasons. First, let us deal with the short-term, specific elements of the Fraser Commission's response to the concerns of residential communities that they want to be able to live in peace and quiet. The Minister quoted extensively from page 540 of the Fraser Commission's Report. I believe he went so far as to say that the Fraser Commission has approved

the course of action that the Government is taking now. That is nonsense. In fact, the Fraser Commission has explicitly rejected the approach which the Government is taking in this legislation.

The Minister read about two-thirds of the way through page 540 but he did not read the following sentence:

We also believe that it should not be sufficient basis for attaching criminal responsibility that a prostitute or a customer offer to engage in prostitution. Apart from the fact that it is difficult to characterize this as an intolerable interference, the methods which would be employed by the police to secure convictions are unacceptable. While undercover and decoy work may be necessary in certain cases to provide a basis for prosecution in the case of serious crime, we see no justification for its use in dealing with this relatively minor form of criminality.

In other words, in dealing with a nuisance.

Interestingly enough, the Minister of Justice did not bother to read that provision of the Fraser Commission Report. Had he done so, it would have been immediately obvious that the Fraser Commission rejects the approach taken by the Government, even on the short-term provisions with respect to nuisance.

What does the Government's Bill actually do? First, it provides that those who impede or molest individuals and attempt to solicit for the purpose of prostitution in public places will be subject to a criminal sanction. It is a sanction of six months in jail or a fine of \$2,000 to those who impede, molest or harass people on the sidewalks.

The Bill does not just deal with those who harass people on sidewalks or the streets. It could be argued that there is a legitimate concern which may have to be addressed by Criminal Code provisions if existing laws are inadequate to deal with those concerns.

However, the Bill goes far beyond that. The Bill states that every person who, in a public place or in any place open to public view, in any manner communicates or attempts to communicate with any person for the purpose of engaging in prostitution or of obtaining the services of a prostitute, is guilty of an offence punishable on summary conviction. I referred to a sledge hammer approach to the nuisance problem. Think of the implications of this particular clause as it deals with any form of communication whatsoever in any public place anywhere in Canada. What does it mean? What does it do for freedom of speech and civil liberties in this country? Does this include a nod in a crowded bar? Does it include a wink on the street? The answer is yes. Clearly, both of those are forms of communication, and as of the date of passage of this Bill those forms of communication will be branded criminal in this country. If that is not an assault on freedom of speech, if that is not an attack on civil liberties in this country, I do not know what is.

The Minister, in purporting to deal with the acknowledged nuisance in residential communities of those who would impede and harass individuals, goes far beyond that to deal with any form of communication, not just on the street or in alleyways but any form of communication in any public place. What possible justification can there be for that kind of attack on freedom of speech in Canada?