

Criminal Code

the first clause the minister would not disagree with that course, because it will save a great deal of time later on.

Mr. Speaker: I am not objecting to the course followed. I think the hon. member is endeavouring to deal with the bill as it should be dealt with on second reading, I simply asked the hon. member if he might deal with it the other way.

Mr. Fulton: May I just say a word, Mr. Speaker? I particularly do not want to appear discourteous to hon. members, in that I have not made a statement on second reading. I did not do it for the very reason Your Honour mentioned, namely because it seems impossible to isolate the principle of this bill to be debated on second reading because it consists of a number of detailed amendments to various sections of the Criminal Code. I wanted to make that explanation to let the house know that that is the reason why I did not make a statement.

However, having said that, I have no objection at all if any hon. member wishes to discuss matters general on clause 1; but I would ask hon. members to endeavour not to get into discussion on details because I think we can wait until we discuss specific clauses.

Mr. Eudes: May I continue in a general way, Mr. Speaker?

Mr. Speaker: Yes.

(Translation):

Mr. Eudes: In the last ten years especially, the public has been aroused by the ravages caused, at all population levels, by obscenity.

Groups of investigators and workers have cropped up all over the world to fight literature, entertainment shows, newspapers, in short all vehicles of human thought which, under the pretext of educating or entertaining, do in fact corrupt or deprave society. However, these problems raised by obscenity are nothing new.

For centuries, every government, and particularly Christian governments, have been concerned with this problem and have tried to cope with it. Recently, in 1951, the international union for the protection of public morality was established in Paris. This union, which now includes 74 organizations from 17 different countries, steadily strives to coordinate efforts made in the various countries to protect public morality.

Its first international convention, held at Cologne in May 1955, was attended by 250

delegates from all parts of the world, who studied the problem of children and young people against the background of public immorality.

The second convention, which dealt with "public opinion and public morality", was held last July at Freiburg, in Switzerland.

It will be seen that everywhere public opinion is concerned with the serious problems raised by obscenity and immorality.

Our own responsibility, as lawmakers, is mainly to seek more efficient legislation to prevent and stop the circulation of obscene matter. Legislation, indeed, is necessary to insure the preservation of morality.

It would, however, be foolish to assume that the state can check immorality through legislation alone.

This objective can be reached only with the active co-operation of individuals. Insuring an atmosphere of healthy morality within the community is indeed a primary responsibility of the individual, through the priority of natural law. If every individual watched his own morals, the problem of obscenity would not arise.

For several years in Canada, a commendable campaign has been going on, in every section of the community and in every part of the country, to increase the efficiency of present legislation in the field of obscenity.

The lack of a clear definition of the word "obscene" in our legislation is an obstacle to legal action, because decisions are thus left to the often hesitant interpretation of a court or jury.

However, it is quite a task to work out a legal definition of the term obscenity.

Obscenity is that which offends modesty; and modesty is a feeling of honest shame, caused by apprehension of what can cause offence to sexual decency.

How can we derive from these two concepts a definition of obscenity which would be all at once precise, useful and practical for judges, juries and law enforcement officers?

Then, too, the subjective and relative character inherent in the concept of obscenity makes the definition extremely difficult. What one person considers as obscene might not seem so to someone else. To determine the obscenity of a certain production, for instance, one must examine the character, the education, the background and experience of the person who is reached by it. Thus do opinions about the obscenity of a certain thing vary from one court to the other, from one country to another.

Then too, one must guard against giving of the word obscene a definition so comprehensive that it would stifle the creation and diffusion of artistic production.