

Criminal Code

of the classic examples of books that have been ruled as obscene in the past. I should like to point out to the minister, if it has not been done already, that at one time a book of Shaw's, "Mrs. Warren's Profession", dealing as it does with prostitution, was under the pale in England. If you want other examples you can easily find them in a play such as Ibsen's "Ghosts", a theme of which is venereal disease. It is examples like this used by advocates of censorship that have created in the world of librarians and literary figures a distrust of any changes that have to do with the idea of obscenity. I do not want to belabour the particular point except to tell the minister that there is very deep concern amongst people who deal with books about the consequences of this change the minister is introducing. When we can deal with the details of this particular clause, I should like to point out some of the reasons for my statement based on the wording.

In conclusion of my remarks, which I think are on the principle involved in this amendment, I should like to read from a statement that was made before the tariff board by Frank A. Underhill on January 29, 1958. This appeared in the Canadian Library Association bulletin for July, 1958, the same bulletin or at least the same magazine which, on another date, featured a statement by the minister, as well as other people, on this censorship or obscenity problem. At one point, Mr. Underhill said this:

The point that I am trying to make is that modern literary artists, in their concentration on sex, violence and societies in decay, are not just exploiting these themes for the sake of vulgar notoriety and best-seller profits. They are trying, seriously and intensely, to say something significant about the condition of man in our day. They are impressed chiefly by his inability to discipline his unruly passions and his almost infinite capacity for evil. If they look on the black side, and present painful or repulsive pictures of human beings in action, can anyone blame them who has been sensitive to the experience of our age?

This points up the problem involved in so far as the literature of our time is concerned. I know that principally this particular change has to do with another kind of book altogether, another kind of literature, and I am sure that the minister is going to receive general commendation from most people in the nation for trying to make this change. However, in so far as one can examine the general principle that is involved in this particular change, it comes down to the attempt he has made to define obscenity, I must suggest that in that particular regard I have certain qualms about the definition. The hon. member who spoke before me indicated that his group was going to move certain amendments in connection with that,

[Mr. Fisher.]

and I should like to say that we are going to have amendments, or at least one amendment, to it.

In concluding my remarks on the principle of the bill, I would say we are glad the minister did not decide to try to set up some kind of censorship board. I know that was a demand because I was reviewing the evidence given before the Senate committee in 1952 and 1953 and I found the suggestion came up there. I read also the minister's evidence before that committee and I find his views then are generally consistent with the statement that he has made. At that time he was against the general idea of a censorship board, and he was against all the problems that are inherent in defining obscenity. This group, as a whole approves of the idea of keeping the matter of determining obscenity in the courts rather than giving it to a censorship board. It is not so sure that this particular change is going to make the task of the judges any easier. It regrets that some way has not been found, in the change that has been made, to take some of the onus from the customs officials.

Last year we were given an indication by the Minister of National Revenue (Mr. Nowlan) that he hoped the department would get out from under this particular chore. There is no indication that these changes are going to do that, except in a sort of delayed reaction fashion, in that there may be rulings coming out of the courts which will give enlightenment and advice to the customs officials. Of course some enlightenment and advice could have come from the tariff board if anyone had bothered to take any appeals to it. However, this was never done.

In conclusion, Mr. Speaker, I would say that I may have given the minister the impression by talking on his bill at this stage that I was impeding its progress. I am sure if he intends to bring it in and push it through, it is going to go through and become law. We will see just how it is going to work. After the experience which some of us in this house had this afternoon in viewing with a certain amount of consternation a piece of legislation we passed last year after the minister's assurance that everything—

Mr. Fulton: This minister?

Mr. Fisher: No, another minister—was going to be fine, we are going to be a little more sceptical about such assurances this session. I am sure the intention is excellent and we hope it will have an effect upon the kind of literature at which the minister is aiming. Certainly, however, when the