

Child Pornography

problem in terms of protecting those who cannot protect themselves.

Subsection 159(8) of Bill C-211 contains the following definition:

"obscene thing" includes any explicit representation or detailed description of a sexual act—

Then it goes on to define sexual act, and refers to one of those as being vaginal intercourse. There are a number of works of art and literature in our society which suddenly could be removed from the shelves of the libraries of Canada. We do not want to be some kind of cultural backwater in this country. With the best of intentions, the hon. member presented a bill which would be counterproductive if it were passed. If it passed, the objections to this bill would be overwhelming from a vast sector of our country.

In terms of the specificity under clause 166.1, I have no objection to that. We need special protection, but we cannot take away from a jury the question of what is undue exploitation. Lawyers, draftsmen and other people have attempted to define this for the last hundred years, and it just does not work. There has to be some value judgment about what the purpose was.

The hon. member had much to say about the promotion of pornography. The movie entitled "Deep Throat" cost approximately \$25,000 to produce, and now it has grossed \$50 million. That is the good old free enterprise system. If someone can make \$50 million by investing \$25,000, of course he will go into the business. There has to be some judgment, which judgment must be exercised by one's peers in a jury democratically. When one attempts to define that out of a jury by saying that a specific act shall be pornographic, with no questions asked or answered, and with no judge or jury looking into it, then one would impoverish the culture of Canada. I cannot agree with that, but I have no problem agreeing with the second part of the bill.

Mr. W. Kenneth Robinson (Parliamentary Secretary to Minister of National Health and Welfare): Mr. Speaker, I congratulate the hon. member for Provencher (Mr. Epp) for once again coming forward with this bill. Bill C-211 indicates his profound concern about pornography. As he well knows, members of the Standing Committee on Justice and Legal Affairs dealt with this matter and prepared a report. He quoted from the report by referring to recommendation No. 7 which he said in effect referred to his bill.

I was one of those who prepared the draft report, along with the hon. member for New Westminster (Mr. Leggatt), the hon. member for St. John's East (Mr. McGrath), and several others who had bills which were considered at that time. There has been a great deal of input from all parties on both sides of the House regarding the whole question of pornography. It is still of tremendous concern. There is a great deal of difficulty in attempting to resolve this, not only from the point of view of what is or is not pornographic but in defining terms like obscene and others. Apparently that appears to be impossible at this time.

[Mr. Leggatt.]

According to the Oxford dictionary, the word "impossible" merely means that it is difficult; but I must say that it is so difficult that we have not yet been able to come up with a definition. The committee found the same difficulty. It was somewhat rushed in preparing a report before the House adjourned, and it came up with the best report it could under the circumstances. But certainly the report did not contain everything we wanted it to contain. In particular, subsection 159(8) of the Criminal Code probably should have been restated, if possible, so that we would have a much more definitive definition than the one we are still working with today in the Criminal Code.

A difficulty exists regarding the balance between the right to see, use, have, or even read pornographic material. On the other side, there is the whole question of censorship which might be involved, if an attempt is made to take such material away from people who wish to use it.

I should like to refer to an article which appeared in the *Sunday Sun* of October 22, 1978. It is entitled: "MD: Sex Never Corrupts Anyone", and reads as follows:

● (1732)

Caught junior looking at pornographic pictures or a sexually explicit film?

Don't worry, says leading sexologist Dr. John Money, of Johns Hopkins University in Baltimore.

"If a youngster has been brought up with healthy attitudes he will suffer no harm," says the doctor. "Moreover, sexually explicit material never corrupted anyone."

In the same article they also talk about the question of censorship. So we have this balance that we are trying to adjust to, the question of having pornographic material being made available to those who wish to have it, while at the same time trying to deter others from using pornographic material when it is felt that it is not to their benefit.

I agree with the hon. member for Provencher when he refers to the whole question of kiddie pornography in his bill. It is something which I personally find absolutely reprehensible. It is the worst form of pornography and it is the most extreme form. I agree in part with the hon. member for New Westminster (Mr. Leggatt) when he says that we must take a look at it in depth to determine how far we should go. There could in fact be historical works, works of arts and so on to consider. I have looked at works of art in libraries, and there is no question that according to some standards they would be considered obscene and pornographic. On the other hand, art has been there for years and nobody seems to be too concerned about it, and I suppose this is because it is not on the shelves in the grocery store.

There are some other points I would like to put on the record. As I understand it, the purported aim of this bill is, according to the explanatory notes accompanying the legislation, "to outlaw child pornography and spell out clearly the term "obscene" so that the courts may apply a more objective test than the present one that relates to the "undue exploitation of sex." It attempts to do so by repealing the definition to be found in section 159(8), which reads: