

the Fraser Committee is expected to come back with recommendations for action on pornography any week now. I would have thought that legislation would have been brought in by the end of June of this year. Perhaps the Government will bring in the legislation before the summer recess if the Fraser Committee comes back with a good definition to be used in a Criminal Code amendment. We do need a very precise definition in the Criminal Code so that the other pieces of legislation can refer to it and be an effective barrier to the importation of pornography.

The importation of pornography is indeed the problem facing us. Most of the pornography that is circulated in Canada is imported, and that is particularly the case for violent pornography and child pornography. What appears in the Customs Tariff Act is extremely important for regulating pornography at the border.

Promises of legislation have been made and repeated since 1978. I think that it is high time that we actually amended the Criminal Code to get these definitions in place. I would like to point out to the Government that there is increasing agreement in Canadian society as to what those definitions should be, so it is not necessary to wait for this consensus to evolve. The Badgley Committee commissioned studies on public attitudes toward pornography and child pornography and it found a very profound abhorrence to it and a very important concern regarding the limiting of pornography and the use of legislation to do so. A recent court ruling by Mr. Justice Shannon included an extremely good definition of obscenity by distinguishing violent and degrading pornography on the one hand from what is merely sexually explicit on the other.

Court decisions are beginning to make the distinctions that women's organizations have been making and advocating to government and public opinion is beginning to coalesce around these distinctions. I do not think there is a reason for ongoing delay. The courts are beginning to move their interpretations in that direction. The public is moving in that direction and the women's organizations have led the way in offering precise definitions. It is really now up to the Government to act by including these definitions in legislation.

I would like to make a few remarks about the problem posed by hate propaganda in Canadian society. One part of Bill C-38 gives the authority to Customs and tariff officials to keep hate propaganda from entering the country. In this area we can be somewhat less smug than we are in the area of pornography because hate literature is indeed produced in Canada and Canada has been known to be an exporter of hate propaganda. We have no occasion to be smug in this regard. Courts have not upheld the banning of such literature because of the vagueness of the wording in the legislations. Because of this, we have made the Zundels and Keegstras of Canada very happy. I think we should be very unhappy when we see their pleasure at court rulings.

The Zundels and Keegstras of Canada argue on the basis of freedom of expression and I think we must look seriously at their contentions. Freedom of expression is a very basic value that we as Canadians hold dear, but I would remind the House

### *Customs Tariff*

that freedom of expression has never been absolute in our country or in any other country. There are reasons for limiting freedom of expression. We limit it on the basis of libel and slander, and on the basis of counselling a crime, threatening and extortion. There are all kinds of laws that forbid the expression of certain opinions because the expression of those very opinions would cause harm to other people. Freedom of expression cannot go further than respect for the life, security and dignity of other people. Hate propaganda very much violates the freedom, life and security of other people in our society.

Our laws on hate literature, as with our laws on pornography, are woefully inadequate as currently defined in the Criminal Code. Until this year there have not been convictions that have stood up to appeals and we do not know what will happen with the Zundel case because it has been appealed and it is possible that that verdict will be overturned. The hate literature sections of the Criminal Code are thoroughly inadequate.

The Canadian Jewish Congress and other groups have made recommendations for amendments. This is not the place to deal with the substance of those amendments but, very briefly, they indicate that the loopholes which exist regarding religious belief, wilfulness, good faith and the requirement for the Attorney General to prosecute these cases have meant that hate propaganda laws have simply not had any teeth.

I would like to read a very good statement of the problems that hate propaganda and particularly the Zundel case have caused members of our society. Bob Rae, the Leader of the Ontario New Democratic Party, while attending a Holocaust Remembrance service recently held in Toronto, said the following:

We have just lived through the bewildering experience of a trial of a West German citizen living in Canada who has for years used this country as a base for spreading hate propaganda, misinformation and lies about the past—

I say "bewildering" because for some weeks what was on trial, or at least being tested, were not Mr. (Ernst) Zundel's lies and propaganda, but rather the reality of the Jewish experience in the twentieth century. One can scarcely imagine a court being asked to determine whether D-Day happened, or the Dieppe raid. Neither the defendants at the Nuremberg trials, nor Adolf Eichmann himself in his own defence in Jerusalem, tried to argue that the Holocaust never happened, or was some kind of hoax. That would have been too utterly fantastic, too absurd.

But in Toronto in 1985 we saw headlines day after day talking about "rival theories" and "revisionist thinking" about what happened to the Jews in Europe between 1933 and 1945, as if these theories could somehow be placed on an equal footing with the fact of the Holocaust.

The Holocaust happened. Millions of Jews were killed as part of a policy of deliberate extermination. These are not theories. There will be many opinions on why this terrible event happened. But to deny that it did happen, or worse, to assert that it has been distorted and invented by people, is not "revisionism": it is hatred pure and simple.

A community has gone through the agony of seeing that reality denied and it has suffered again as a result of that.

It is ironic that the Charter of Rights, which was a promise of freedom and equality for all members of Canadian society, should be used to defend threats to and attacks upon fellow citizens who are not thereby equal and free members of our society. It is ironic that the Charter of Rights, which was