

tributed obscene printed matter, tending to corrupt public morals within the meaning of sec. 207, sub-sec. 1A. of the Criminal Code, is to me very clear. No one who reads the pamphlet can reasonably hold any other opinion as to its obscenity. Counsel for the defence has admitted it subject to this qualification: He argues that when read with the context and considered in the light of its limited circulation, it may not be regarded as obscene. In other words, that the obscene matter is clothed in a garb that hides its obscenity. I cannot follow that argument. Then as to the circulation, it must be borne in mind that the test of obscenity as laid down by Lord Cockburn in *Reg. v. Hicklin*, L. R. 3 Q. B. P. 371 is "whether the tendency of the matter charged as obscenity is to deprave and corrupt those whose minds are open to such immoral influences and into whose hands a publication of this sort may fall." The pamphlet in question was addressed to the clergymen, but there was no evidence that it was sent to them as a body, if that would have made any difference and in my opinion it would not. There was evidence that by the accused it was placed in the hands of four persons, none of whom were clergymen, and only one of whom was associated with him in his work. Then I am forbidden by the Criminal Code from considering the motives that actuated him in printing and circulating it. And it is no defence in itself to say that it is a correct description of what he saw and heard at this show—*Steele v. Brennan*, L. R. 7 C. P. 261, and *Reg. v. Carlyle*, 3 B. & A. 167, which decide this, are decisions binding upon this Court and must be followed. And that must be so, apart from authority, for it would be strange indeed that in order to prevent the pollution of the public morals the law should allow pollution to be circulated.

The only defence in my opinion that the accused might have is to be found in sec. 207, sub-sec. 2 of the Code, which reads as follows: "No one shall be convicted of any offence in this section mentioned, if he proves that the public good was served by the acts alleged to have been done, and that there was no excess in the acts alleged beyond what the public good required."

It is, therefore, necessary to consider the meaning of the words "public good was served" and to consider whether the accused (for the burden is placed on him by the statute) has made out a defence under this section.