

*Criminal Code*

responsibility for passing criminal legislation. Whatever amendment we adopt is of little use if it is not enforceable. Our duty here is to turn out an enforceable law. It is to this end that I urge that we secure the best advice that we can from those extremely important sources, the men whose prosecution and enforcement of this section is an indispensable ingredient in its effectiveness.

I suggest that we hold this bill in committee in order to get the benefit of as many of these opinions as we possibly can, with the understanding, of course, that in any event we shall pass it in as effective a form as possible before prorogation.

**Mr. Fulton:** When the minister refers to "prorogation" does he mean the prorogation at the end of this session?

**Mr. Garson:** Yes.

**Mr. Smith (Calgary West):** The minister made a distinction in connection with the elimination of these words. Any person who published or distributed such material would be liable just the same as the publisher.

**Mr. Stewart (Yorkton):** He has protection.

**Mr. Smith (Calgary West):** He has no protection except under the different provincial statutes which provide for apologies and a lot of nonsense of that kind. He is liable to be prosecuted under the Criminal Code. No one has been hurt very much by that. I am not advocating one thing or another, but is it not a fact that if these words were eliminated it would put these scurrilous magazines—if I may call them that—in exactly the same position as a newspaper which publishes a criminal libel?

**Mr. Murray (Cariboo):** I should like to say a word at this time—

**Mr. Smith (Calgary West):** I merely asked a question.

**An hon. Member:** We are not in committee.

**Mr. Smith (Calgary West):** As a matter of courtesy I expected an answer; as a matter of rule I am not entitled to it.

**Mr. Garson:** With the permission of the house I would be delighted to attempt to answer my hon. friend. The analogy my hon. friend has drawn between his point and my own is hardly a true one. The point I was trying to make was that, where in section 207 of the Criminal Code you have the words, "knowingly, without lawful justification or excuse" as part of the definition of the offence, it is likely to be easier to make out a case and thus secure a conviction against a publisher who has to set up the obscene material in type and run it through the press than it would to obtain a conviction

[Mr. Garson.]

against a bookseller who may have that particular book among thousands of others on his shelves without necessarily having any exact knowledge of its contents. I was not discussing the question of liability, because the publishers and booksellers are equally liable under section 207 of the Criminal Code. But there would be much greater difficulty in bringing home knowledge to the bookseller than there would be bringing it home to the book publisher. The point of the hon. member for Calgary West was in connection with criminal libel. This point is somewhat different from the one I was discussing, although knowledge has to be brought home to the seller of printed libellous matter in order to secure a conviction against him.

**Mr. Stewart (Yorkton):** The minister has dealt with the word "knowingly" and the difficulty of prosecuting. Is it not a fact that any two people who might happen to read one of these publications could go to the publisher and say it is obscene and then if he distributed it after that he would be distributing it knowingly?

**Mr. Garson:** Certainly.

**Mr. Stewart (Yorkton):** It would be a simple matter for any representative of an association to go along with a witness and prove that it was done knowingly.

**Mr. G. M. Murray (Cariboo):** Mr. Speaker, I hesitate to say anything at this time as lawyers in the house have had their full say on this matter, but as a humble publisher I thought probably I should interject a word or two. This country is deluged with filth from the publishers of the United States and no effort is made to stop this material coming past the border. We have the right to impose a tariff upon the plates and illustrations and literature generally imported into this country. Unless we do that I think we can expect to continue to pay great profits to the publishers in New York, Chicago and elsewhere.

If one looks at a Canadian paper one will see that at least half of the news content is made up by material from news services originating in New York, Chicago or elsewhere. We have capable journalists in Canada who would be only too glad to write those articles, but apparently it is more desirable to import this material and along with it the so-called pornographic material which has been discussed here tonight.

As a publisher may I say that I do not think we alone are competent to judge what is good or what is bad. That is something for public opinion. We get just what we ask for. You can take the Bible and hold it up as an example of a publication which contains