

*Criminal Code*

comics or obscene books. A publisher may fairly be presumed to know the nature of his publication. (b) Knowledge should not have to be proved against even the retailer of crime comics. These are not like novels, where an evil interior may be unsuspected within an innocent-looking cover. Crime comics are conspicuous and their general nature well known, and retailers may fairly be expected to handle them at their own risk. (c) Knowledge should have to be proved against a retail book vendor, because it would be unfair to hold him absolutely responsible for all the books upon his shelves.

4. At least two provinces, British Columbia and Manitoba, which submitted two of the most thoughtful returns coming from the provinces, make the point that it may be practically impossible in any particular case to prove beyond a reasonable doubt that a particular crime comic tends to induce to crime or corrupt morals. They therefore suggest that the words included in the amendment proposed by the hon. member for Kamloops "thereby tending or likely to induce or influence youthful persons to violate the law or to corrupt the morals of such persons" be deleted, and that parliament thereby take the responsibility of saying that crime comics do have that effect, and remove the point from the field of argument.

I also received expressions of opinion from members of the Criminal Code revision group. Mr. Justice Gerald Fauteux, of the Quebec superior court, answered in the negative the first question, whether the law could be enforced with the words "knowingly, without lawful justification or excuse" included.

It was the view of Mr. Justice Fauteux that the deletion of the words "knowingly, without lawful justification or excuse," would in theory facilitate enforcement but would—in his view, of course—be unfair to retailers and others, and thus might lead the courts to compromise on the facts.

Mr. Justice Fauteux, on (c) and (d), submits a draft which omits the words "knowingly, etc.," but makes it a defence, except as regards the production of such matter, to prove that the defendant did not act knowingly or had a lawful justification or excuse; and requires consent of the attorney general to commence prosecution.

Judge Robert Forsyth, the senior judge of the county court of the county of York, questions whether crime comics contribute to juvenile delinquency. While in the justice department he made a survey of a number of juvenile court judges, and never secured any such evidence. This was only a telephone

survey. He believes phonograph records should be included. The most effective control would be by way of provincial licensing of distributors. He questions whether crime comics are within the words "thereby tending or likely, etc.," in the draft paragraph (d). Nevertheless he considers (d) as satisfactory as possible.

H. J. Wilson, K.C., deputy attorney general of Alberta, expressed a view which was the same as that expressed officially by that province.

Fernand Choquette, K.C., of the Quebec bar, answers (a) "no", and (b) "yes". Under (c) he would make it an offence to act negligently as well as knowingly, and the same with regard to (d).

H. P. Carter, K.C., director of public prosecutions for Newfoundland, answers (a) "no" and (b) "yes", but believes it would place bona fide vendors in a difficult position. He thinks that, without injustice, the words "knowingly, etc." could be dropped with reference to all handling of crime comics.

Now, Mr. Chairman, in the department we have tried to produce an amendment which reconciles all these points of view, so far as we are able to do so. First of all I should like to move the text of the amendment; and then if I may, sir, explain its provisions and endeavour to relate them to the replies we have received from the provinces. I move:

That clause one of the bill be amended by striking out the first three words, "subsection one of," in line one, and by striking out all the words in the clause following the word "is," in line three and substituting therefor the following:

... repealed, and the following substituted therefor:

207. (1) Everyone is guilty of an indictable offence and liable to two years' imprisonment—

Perhaps I should interject here that the method we have followed in dealing with this matter is that where we wished to make changes in the substance—the wording of this section has been on the statute book for a number of years—we have tried, in the course of these changes, to redraft the whole section, incorporating the changes in substance and at the same time improving the language all the way through. We are trying to do a workmanlike job on the whole section.

If the amendment which I am now moving carries, section 207 will read in this way:

207. (1) Everyone is guilty of an indictable offence and liable to two years' imprisonment who

(a) makes, prints, publishes, distributes, circulates or has in possession for any such purpose any obscene written matter, picture, model, or other thing whatsoever, or