

*Criminal Code*

they believe the present law is satisfactory. Section 159(1) states:

Every one commits an offence who

(a) makes, prints, publishes, distributes, circulates or has in his possession for the purpose of publication, distribution or circulation any obscene written matter, picture, model, phonograph record or other thing whatsoever, or

(b) makes, prints, publishes, distributes, sells, or has in his possession for the purposes of publication, distribution or circulation, a crime comic.

(2) Every one commits an offence who knowingly, without lawful justification or excuse

(a) sells, exposes to public view or has in his possession for such a purpose any obscene written matter, picture, model, phonograph record or other thing whatsoever,

(b) publicly exhibits a disgusting object or an indecent show,

• (1610)

Let me interrupt myself in reading these particular provisions to point out that this is now the present law of Canada. The section continues:

(c) offers to sell, advertises, publishes an advertisement of, or has for sale or disposal any means, instructions, medicine, drug or article intended or represented as a method of causing abortion or miscarriage, or

(d) advertises or publishes an advertisement of any means, instructions, medicine, drug or article intended or represented as a method for restoring sexual virility or curing venereal diseases or diseases of the generative organs.

The third clause of that particular provision states:

(3) No person shall be convicted of an offence under this section if he establishes that the public good was served by the acts that are alleged to constitute the offence and that the acts alleged did not extend beyond what served the public good.

This is the defence of public good. As I indicated in my remarks, this does not give us any guidance in terms of what defences are available to the average Canadian citizens, whereas the new legislation deals specifically with those defences. Clause 5 states:

For the purposes of this section the motives of an accused are irrelevant.

This is the present law and I would like people to dwell on it. I hope the Hon. Member for Outremont (Mrs. Pépin) is not one of those who wants to stand still and not move ahead. I know she is more progressive than wanting to rely on this particular legislation. She should be the one, speaking as she does on behalf of her own Party, who would applaud the direction in which this legislation is going.

I would like to read clause 8 to give Hon. Members a flavour of what is provided for in the present law:

For the purposes of this Act, any publication a dominant characteristic of which is the undue exploitation of sex, or of sex and any one or more of the following subjects, namely, crime, horror, cruelty and violence, shall be deemed to be obscene.

I come back to my original proposition that this legislation follows a very intensive examination of the question of pornography by a commission which was established by the predecessor Government, headed by Mr. Paul Fraser, a past

President of the Canadian Bar Association and a lawyer of distinction from Vancouver, British Columbia.

The committee travelled extensively with respect to this matter and made recommendations which I think indicated that we should in fact increase substantially the sanctions with respect to offensive material which goes against those levels of portrayal and depiction, including child pornography, the exploitation of children and the degradation of women. That has been the subject of agreement of members from all Parties.

I want to remind Hon. Members of the other provisions in the definition of pornography which deal with the explicit depiction of sexual activity. The Supreme Court of Canada has declared itself at the present time with respect to the law and has found that material to be a contravention of the present obscenity laws. These are the facts that I believe should be kept in mind by Hon. Members when they address this particular legislation.

There has been, as I have said, criticism from a number of critics who have dealt with this particular legislation that this is somehow going to create new difficulties. I reject those criticisms absolutely. I say to Hon. Members that what we now have is an important advance in the law. We have precision in what we are in fact sanctioning as far as public behaviour is concerned. No one in this House is more supportive of the concept of freedom of speech and freedom of expression than myself. That is an important concept and should always be kept at the forefront of all of our points of view in dealing with any legislation. But freedom of expression and freedom of speech do not mean unfettered speech. Where actions of any person in Canada cause injury or damage to their fellow citizens, it is the principle of law which has been in place throughout the history of our country, and continues to be the situation, that this type of behaviour is unacceptable and should be subject to sanctions under the Criminal Code.

Pornography is a form of hate propaganda. It is hate propaganda against the integrity and importance of the individual. That is precisely what we have in this legislation. We say that where there is legitimate purpose, whether it be artistic, scientific, medical or educational, these matters are not covered as far as this particular legislation is concerned. This type of portrayal is absolutely acceptable. Where the main purpose is exploitative and is of itself a degradation of the individual's dignity, where it is a trivialization of the individual or exploitation of the individual, this is the type of portrayal and depiction I think all of us would want to address in the legislation.

I simply say in terms of Bill C-54, that I am interested in having a good examination of this particular legislation in the committee of the House of Commons. I am interested in hearing precisely where Members of Parliament from all Parties stand with respect to this matter. If they feel they have some constructive suggestions, they can rest assured that I, for one, will be listening with great interest. However, if the position of those members is that they are not going to give