

Criminal Code

within the purview of this legislation? Should there not be some distinction between erotica and pornography here?

Mr. Manly: Madam Speaker, the Bill does draw some distinction between erotica and pornography, but it is not clear enough. Some material which I think most Canadians would define as erotica is defined in this legislation as pornographic.

What we need to recognize when we are dealing with this question is that while erotica is something many Canadians, perhaps a majority, would see as being a desirable element of our society in culture, pornography is not. Yet by attempting to clamp down on pornography with this kind of legislation, which uses such a broad brush, we are confusing the line between the two. We are going to open the door to court challenges. I am sure all kinds of artists who will want to challenge this will be presenting material. Some of it will be very mediocre, but because it is artistic, it will require that the rest of the arts community defend it. We are setting ourselves up for a challenge in ways that this legislation will not be able to stand up to. Therefore, it will not do what it is intended to do and deal with the underlying questions of pornography, violence against women, and the sexism which continues to prevail in our society. We need a different approach.

If we can have a better and tighter definition of pornography, if we can have the kind of protection of freedom of expression and freedom of speech which our society wants, then I am prepared to give my reluctant consent to this. I say "reluctant" because I think any kind of legislation restricting human expression is a confession of failure. This legislation is a confession of the failure of our society to deal adequately with the question of sexuality. It is a reflection of our failure to deal with the question of violence.

Mr. Hawkes: Madam Speaker, I just want to be clear. I think what I heard the Hon. Member saying is that he prefers the present situation, which provides little if any protection to women and children from the kinds of things we are all concerned about, to the alternative of moving this Bill to committee, holding public hearings, considering amendments, and changing things to create the kind of world he talks about. He prefers a process which will stop us dead in our tracks. That means he prefers the present situation which provides little if any protection to women and children. Is that what I am hearing clearly from the Hon. Member? Is he saying, let us stay where we are instead of moving to a parliamentary committee to hear witnesses and have the chance to amend the Bill?

Mr. Manly: Madam Speaker, absolutely not. The Hon. Member is completely distorting my position. The Badgley Commission suggested that there be separate and distinct legislation, for example, dealing with child pornography. I endorse that stand and I would like to see the House move on that. It could move very quickly if legislation were brought in.

With regard to the broader question of pornography, I believe that in the present situation it is necessary to have some

restrictions. I feel that very reluctantly but I believe it is necessary. Yet this present legislation is too sweeping. It goes too far. I prefer that the Government take this Bill back, sit down and consult with the arts community and the people who are concerned about pornography, reread the Fraser Commission report and the Badgley Commission report, and bring in legislation acceptable to Canadians. Let it bring in legislation that would deal with this situation, rather than something that is unacceptable and will probably not stand up in court. It will just make a farce of the whole procedure.

Mr. Hawkes: Madam Speaker, we are debating an amendment which would stop this legislation dead and continue the current situation. I thought I heard a speech in support of the amendment. Does he intend to vote for the amendment or against it? If he votes for it and it succeeds, it stops the legislation dead and the present situation continues. Which is it?

Mr. Manly: I have been very clear. Certainly I will be voting for the amendment. We say this Bill is unacceptable. We would like the Government to bring in the kind of legislation I just referred to. First, it should deal specifically with the question of child pornography. That will get very quick and favourable treatment if it follows the recommendations of the Badgley Commission.

Second, we want legislation which will deal with the question of pornography and violence but not that which will confuse the boundary line between erotica and pornography. We do not want legislation that will not stand up to the scrutiny of the Canadian people. This legislation will not work. We are simply doing our duty by saying that it is not acceptable and that the Government should take it back to the drawing board.

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We are not rejecting an attempt to deal with a very serious situation in society. I have outlined my position on that very clearly. We want the Government to deal with this situation in a way which will not trample on the rights of Canadians of free speech and artistic expression, in a way which will not create a law which will give added weight to the old saying of Mr. Bumble that "the law is a ass".

Mr. Keeper: Madam Speaker, I have a further question for my hon. colleague. A good part of his speech dealt with the shortcomings of this legislation, which is quite legitimate. I recognize that my colleague is saying that there is need for action in the area of pornography. I am convinced of that argument, particularly given the greater distribution of violent pornography as it affects women.

Would my colleague be prepared to elaborate on the impact of pornography, particularly the portrayal of violent sexual activity as it affects women? Would he elaborate on why there is a need now for effective legislation in this area?