Bill, gives authority to alter displays of erotica. Clause 159.7 of the Bill states:

> Every person who displays any erotica in a way that is visible to a member of the public in a public place, unless the public must, in order to see the erotica, pass a prominent warning notice advising of the nature of the display therein or unless the erotica is hidden by a barrier or is covered by an opaque wrapper, is guilty of an offence punishable on summary conviction.

Is this not a conflict? Which legislation will take precedent? I will not address the matter of whether we should cover erotica material with a fig leaf, a maple leaf, or gift wrap.

What about the right to exhibit works of art in public? Presently the 1924 Copyright Act does not entrench in law the right of artists to obtain royalty fees for exhibiting their art works in public.

According to the new legislation, exhibition rights will become an integral part of copyright that can be exercised like other economic rights. Fifty years ago, the enactment of a performance right was considered a maverick development. Now performance rights are commonplace and have undeniably enriched composers and lyricists.

While Canadian visual artists are compensated through proceeds of sales and reproduction fees, these sources do not cover the full use of these art works. Today, the businesses of art rentals and exhibitions in public and private galleries significantly exceed the income from original works. Furthermore, in 1981, a Canadian Council study found that less than one-tenth of one per cent of art gallery expenditures went to artists' fees. Clearly there has been an insufficient onus on gallery proprietors to remunerate the visual artist in amounts commensurate with the number of exhibitions being held.

I am pleased that through this statutory exhibition right, artists will now be in receipt of royalties rightly earned.

I will now deal with choreography. Under the current 1924 Copyright Act, choreographic works come within the category of dramatic works. As a result, works of choreography must develop a plot or a sequence of action.

Glass Houses, a work by Toronto choreographer Christopher House, or Marcel Marceau's work in mime are examples of work not constructed around a dramatic plot.

Groups appearing before the subcommittee in 1985 asked that there be an entirely separate category of protected subject matter labelled "choreographic works" incorporated in the new legislation. "Choreographic works" is defined in Bill C-60 as: "Any work of choreography, whether or not it has any story line". While I accept this definition, I would have preferred that suggested by Elise Orenstein of the Canadian Association of Professional Dance Organizations, which is "an arrangement or an organized thought in time and space which uses human bodies as design units".

Perhaps the most contentious part of the Bill could be the clauses which relate to the Industrial Design Act of Canada. The field of industrial design is closely related to copyright. In fact, a number of court cases have occurred in Canada because the parties were unable to ascertain whether their rights were protected by the Copyright Act, or by the Industrial Design Act.

For example, consider the June, 1986 decision of the Federal Court of Appeal in Bayliner Marine *versus* Doral Boats. The court held in that case that a company which produced engineering drawings to manufacture a special type of hull for a boat, and then manufactured the boat from those drawings, could not assert any copyright against a party which bought one of the boats, took it apart, and manufactured its own boat after copying the actual hull. The court held that if the company which originated the design had wanted to protect its rights, it should have sought registration of the design for the boat hull under the Industrial Design Act. The originator was out of time to make such a registration since the Industrial Design Act only permits such registrations to be made within one year from the date the design was "published", that is, shown publicly. According to the Government, Bill C-60 proposes to "resolve the ambiguities resulting from recent court decisions" and "to provide an objective means of determining whether an article can be protected by copyright, industrial design, both or neither".

• (1240)

However, the Bill may fail to accomplish its objective in the area of industrial design. The amendment to Clause 46 of the Bill returns the law to the unsatisfactory state which existed in Canada following the Bayliner marine decision, to which I just referred. The new Clause 46 provides that the copyright in certain designs will become unenforceable once an article is manufactured from that design in quantities of more than 50. So we are left with the unusual situation that if 35 articles are produced from the design, the designer will have copyright protection which will then disappear once the 50th article has been produced.

The effect of the Bill is that those relatively few designs which are created purely for artistic purposes, and not for manufacturing, will be afforded copyright protection, while the vast majority of designs which are created for industrial purpose, that is, products to be manufactured in quantities of more than 50, will have none. The latter will be protected, if at all, under the little-known Industrial Design Act, which is only about two pages long, but only if registered within the specific time limit of one year allowed under that Act. Therefore, the ultimate effect of the Bill will be to take most designs outside of copyright and place them under the Industrial Design Act.

In other words, most of our designers will no longer be able to simply fill in a pre-printed form and send in a cheque for $35 in order to register their copyright in a new design. Nor will they be able to claim copyright protection even if they forget to register at all, which is normally the case. Rather, our designers will be obliged to register promptly under the more complicated scheme set forth in the Industrial Design Act, which could cost hundreds of dollars in legal or agent's fees.