sexual misconduct are not defined. The committee should look at that area in detail and hear evidence on it from experts.

A great part of this clause is to try and legitimize and save the young people in the 15 to 18-year age group from having criminal charges pressed against them as a result of what some people describe as ordinary conduct for young people in that age group, such as fondling, petting etc, that is seen to be normal in some cases but which I am not sure, as a matter of criminal law, we should be trying to cover at all, at least to make it legal.

It is also clear that the penalty under this new clause has been changed from life imprisonment to that of ten years in prison. It will be interesting to hear what the government has to say as to why it felt it should put forth this policy for the people of Canada. It will be interesting to hear what the experts have to say, and we will want to follow up on that as well.

Section 146(2) of the Criminal Code reads:

> Every male person who has sexual intercourse with a female person who
>
> (*a*) is not his wife,
>
> (*b*) is of previously chaste character, and
>
> (*c*) is fourteen years of age or more and is under the age of sixteen years,
>
> whether or not he believes that she is sixteen years of age or more, is guilty of an indictable offence and is liable to imprisonment for five years.

That was the special section of protection for females between the ages of 14 and 16 years. That section has been carried forward with some changes into the new bill. It will be numbered Clause 167(1), and it reads:

> Every one who engages in or procures sexual misconduct with or by a person who
>
> (*a*) is not spouse, and
>
> (*b*) is fourteen years of age or more and is under the age of sixteen years,
>
> is guilty of an indictable offence and is liable to imprisonment for five years.

Clause 167 sets forth several defences. For example, if the boy is under the age of 16, that would constitute a defence. If the boy is less than three years older than the girl, that would constitute a defence.

However, the following is interesting. We read:

> (2) No one shall be found guilty of an offence under subsection (1) if he establishes that
>
> (*b*) he is less responsible than the complainant for the sexual misconduct that took place.

It has always been a principle of our criminal law that if the boy could show that he was no more responsible—those are the words in the old act—then a judge or a jury could acquit him. But the standard under these new laws, and the onus would be on the person charged to prove that he is less responsible. In the case of two 17-year-old people, how could you possibly show that the boy was less responsible than the girl?

As a matter of evidence, and as a practising lawyer, I can tell hon. members that it would be very difficult to meet that requirement. I believe that to leave that clause in is worse than to leave it out.

Over all we must agree that the clause protects both males and females equally. It removes anachronism, or at least what some people say is anachronism.

Section 152 in the Criminal Code permitted a man to be charged if he seduced a girl under promise of marriage. That section is to be removed in its entirety. But again, I wonder if that is wise. I hope that hon. members will study that section. In other sections of the act we admit 18 is the age at which girls achieve full maturity. In effect, we are saying that girls between the ages of 16 and 18 have no protection at all in the case where an older man seduces them under the promise of marriage.

Bill C-53 has Clause 168 in it. This deals with sexual misconduct by a parent with a child under the age of 16. Again, we are faced with the question of what the definition of sexual misconduct is. Does it cover petting or fondling? What if a father kisses his daughter goodbye on her way to school, does that have the potential of a charge being laid if a daughter becomes spiteful and wants to insist on a charge being laid? That section has a penalty of ten years. I have to ask whether that is enough, because we do know from statistics that the incidence of parents being involved sexually with their children is increasing. That is very regrettable, but clearly it is a fact of life. More people are being divorced. Men and women are taking on common-law spouses, or new spouses who do not have the same parent-child relationship with their stepchildren, and it is simply easy for them to become involved, given the situations that occur in many, many homes. I wonder if ten years is enough as a signal from us as parliamentarians to the judges who sit out there. I particularly wonder if it is enough when you consider that there is automatically a remission of one-third of the sentence, and that the parole board gets involved and automatically reduces that sentence still further. When we as parliamentarians set ten years as the maximum penalty, we are really not giving the judges much leeway in imposing a sentence that is good in terms of preventing other people from committing similar acts. That is what we normally would call a deterrent.

● (2020)

Section 168(2), deals with the use of premises and is no doubt very good. This relates to a growing problem in our society that has to be dealt with. Section 168.1 deals with incest, and I wonder how witnesses will respond to this because again the penalty has been reduced from 14 years to ten years.

Section 168.2 deals with visual representation of sexually explicit conduct of young persons, namely, pornography. That is a new section. This is clearly a growing problem in our society, and I am wondering why, as a matter of government policy, the Minister of Justice (Mr. Chrétien) has brought the bill forward with a penalty of only five years. Surely it is very damaging to young children to be used in making pornographic movies because they might even have the image of themselves as heroes when clearly that is not the case and their whole lives will be affected as a result. When an adult takes a 16-year-old person and gets him or her started in that kind of