

*Criminal Code*

motion for second reading, that the amendment moved by the hon. member for Kamloops would merely bring crime comics as paragraph (d) under section 207 of the code, paragraph (a) of which makes the publication and sale of obscene literature an offence; that the prohibition of the publication and sale of obscene literature by this section had not deterred the publication and sale of that sort of literature to any great extent, and therefore that without more determined prosecution the mere adding of crime comics to this section would not likely solve the problem. Then I suggested that in drafting an enforceable amendment, the most valuable suggestions we could secure would be those from the crown prosecutors and law enforcement officers of the provincial governments, whose responsibility it is to enforce the Criminal Code; and it was arranged that we should leave the bill in committee in order that I might secure the views of the provincial attorneys general on this matter.

Perhaps the best way to indicate to the committee the questions I laid before the attorneys general would be to read the relevant portions of a letter I wrote to one of them, in this case the attorney general of Nova Scotia. All the letters were the same; and this one reads:

Re: section 207 of the Criminal Code.

As you know, a bill has been introduced in parliament to amend section 207 of the Criminal Code by adding a paragraph directed against those "crime comics," so-called, which tend to corrupt young persons.

Then I go on and point out the way section 207(a) of the code now reads, and say that the bill would add the following paragraph, indicating the wording of the amendment introduced by the hon. member for Kamloops. Then I say:

The other parts of the section are not material for the purpose of this letter.

Agreeing with the principle of the bill—which was introduced by the hon. member for Kamloops, Mr. E. D. Fulton—but not being satisfied that it would achieve its object in its present form, I suggested upon the second reading of the bill that it be held in committee in order to obtain the suggestions of the attorneys general as to the form of amendment that should be passed in order to make section 207 as enforceable as possible in respect both of obscene books and of "crime comics."

One method I indicated was the deletion of the words "knowingly, without lawful justification or excuse" from the section as amended by the addition of paragraph (d), but I also pointed out that this method would place a heavy burden upon many booksellers and ought not to be adopted until we were satisfied that the section could not be used effectively to remedy the abuses complained of while these words remained; e.g., by proceeding against the publishers who could not as plausibly plead ignorance as the booksellers. My suggestion was made upon the understanding that the bill would be passed in as effective a form as possible before prorogation of the present session, and my motion was agreed to accordingly.

[Mr. Garson.]

Another method that has since occurred to me is to raise a presumption, rebuttable or otherwise, against the publisher, of knowledge as to the character of the book or magazine, but in the case of the retail vendor to retain the necessity of proving such knowledge affirmatively.

I would therefore be most appreciative if you would give this matter your consideration and, after such consultation as you deem necessary with your prosecuting officers, let me have your advice and views upon the following matters:

(a) Can section 207, as amended by the bill and without deletion of the words "knowingly, without lawful justification or excuse," be enforced effectively?

(b) Can section 207 as so amended be enforced effectively if such words are deleted?

(c) If the answer to (a) is no, can you suggest an amendment that would make the section so enforceable without eliminating the sense of these words?

(d) Your views generally as to how the section could be best framed from the standpoint of enforceability.

Although this letter gives you, I think, the substance of the matter, I am enclosing a number of copies of the bill, No. 10, and of the *Hansards* containing the speeches. My remarks begin at page 1036 of volume 89, No. 26, Friday, October 21, 1949.

In view of the pressure of time I should be most grateful if you could let me have a reply as early as may be, and not later than November 15 if that is possible.

The attorneys general of the provinces obviously gave this letter careful and in some cases even searching attention, and their replies and suggestions have been extremely valuable. From these replies, which are lengthy and which have been tabled, the following points emerge—this is really a summary of the main points established by the attorneys general in their replies:

1. Only one province, Ontario, questions that crime comics have a tendency to induce youthful persons to violate the law or to corrupt the morals of such persons.

2. Quebec and Saskatchewan expressly state that they are in accord that action is necessary. New Brunswick, Prince Edward Island, Alberta, British Columbia, Newfoundland and Manitoba, while not saying it in express words, leave no doubt as to their sympathy, by the manner in which they have replied.

3. The consensus is that section 207 as amended by the bill could not be enforced while the words "knowingly, without lawful justification or excuse" remain, and that these words should be deleted. At least four provinces, Alberta, British Columbia, Newfoundland and New Brunswick, however, make a distinction in this respect between obscene books on the one hand and crime comics on the other, or between publishers on the one hand and vendors on the other. The ideas put forth in this respect are: (a) That knowledge should not have to be proved against a publisher either in respect of crime