

*Criminal Code*

think with the greatest respect he should clarify the law. Surely, this always involves a matter of opinion. The law is an inexact science and that is why we have so many court decisions. One has only to read the Supreme Court of Canada reports to realize that a decision made on the basis of certain facts on Monday may well be reversed on the following Tuesday or a Tuesday a year later. The second decision may be a reversal of the first, yet based on the same or similar facts as a result of a further distinction or a revision of the interpretation.

Surely, the Minister of Justice does not write off the words of Professor Mewett, who is the head of the Criminal law section of the University of Toronto. The minister graduated from McGill, but I think even those students of McGill have some respect for the University of Toronto. This is what the professor says:

There is only one point I would like to raise, and it is a legal point. It is factually impossible for two consenting adults to commit bestiality and Clause 7 purports to say that Section 147—that is, everyone who commits bestiality—does not apply to any act committed in private between a husband and wife or any two persons. I am not quite sure what that means but in my opinion, Mr. Chairman, it does not mean anything. As it stands I think it would mean that if one person committed a sexual act with his dog he would be guilty of an indictable offence and liable to imprisonment for 14 years. If two people did it they would not be guilty of any offence.

In other words, what the professor says is that if two people were in the room or an atmosphere of privacy and one held the animal while the other committed the act, they would be homefree under Section 149. Why do I say that? Under Section 147, everyone who commits buggery or bestiality is guilty of an indictable offence. Why does the minister suggest in the new Section 149-A that Section 147 does not apply to such an act committed in privacy? Section 147 does not deal with homosexuality between males, gross indecency between males and females or acts between females, it deals with buggery and bestiality.

I read somewhere recently that someone was worried about this situation in that you could not have bestiality between two consenting adults. What we must look at in this section is the fact that the act is not defined. It does not state that this must be an act between adults. This involves an act or pantomime in private. This is what Professor Mewett suggests. I should like to emphasize this point because this whole matter to me is disgusting.

[Mr. Woolliams.]

I am not pointing the finger at the minister so far as his philosophy is concerned. I gathered from what he said at the committee he did not want to legalize this practice. He said it was beyond him what the professor was thinking about, and that may be so, but I suggest to him with the greatest respect that the professor might be right. I do not say he is right but he could be right. God help us if the minister is wrong. These laws require clarification.

Surely, this parliament of Canada, which governs a Christian nation, is not going to legalize sexual intercourse between two consenting adults and an animal. Apparently if two people do this they are not guilty of any offence, but if three do it or one does it these individuals would be liable to 14 years imprisonment. Surely, we are entitled to an appropriate amendment clarifying this law. If the minister does not want to legalize this type of thing why does he not say so, particularly in respect of bestiality and carnal copulation with a beast?

Crankshaw was a greater expert than either the minister or myself, and he distinguished between these words. Surely, the minister cannot, in seriousness, want anything but clarification in this regard. Many people in this country have indicated a complete lack of understanding in respect of homosexuality. I have always taken the position that we should not deal with homosexuality in the Criminal Code. This should be dealt with as a sickness or an ailment. It should be treated from a psychological or physical point of view by psychiatrists or doctors, but even they do not agree. Psychiatrists suggest that homosexuality is the result of environment. I have read many books on the subject and I suggest that what we are attempting to do here is legalize acts between two consenting adults over 21 years of age, a man and wife, indecent or homosexual, providing they are carried out in private.

What Professor Mewett suggests is that this measure may legalize the right of two consenting adults over 21 to have sexual relations with an animal in private.

**Mr. Flemming:** They are making it respectable, that is what they are doing.

**Mr. Woolliams:** Yes, I agree with you. Clause 7 of the new bill states that Section 147 does not apply to any act committed in private. If this does not apply to bestiality or buggery, why is there any reference to Section 147? There is nothing in Section 147 that