

Criminal Code

Mr. Garson: No hope because of what? Because of this judgment in Brantford?

Mr. White (Hastings-Peterborough): No; because there is no way of legally defining what is obscene literature. In this case the judge is reported to have said, "In my decision I am guided by the laws of this country", which of course is quite correct. Then in his judgment as reported in the newspapers he makes this pertinent observation:

Who am I to say whether this book or any other book is obscene?

The book complained of was one of the twenty-five cent paper novels, distributed by the American News Company, that can be purchased at any bookstore throughout the country. After reading about this case I obtained a copy of the book and read it. It describes no less than eight serious crimes that are recognized by our Criminal Code. Two of them, rape and murder, are punishable by death. Other serious crimes are punishable by long terms in penitentiary, and may also carry the lash. The book sets out other minor crimes, such as the use of narcotics, theft, seduction and crimes of the kind.

I suggest it would be fair to ask any hon. member of this house to read that book and decide whether it is the sort of novel he would be content to have his teen-age son or daughter read; and then consider what possibility there would be of crown counsel in future obtaining a conviction which would prohibit the circulation of this type of literature throughout the country. This book emphasizes the absolute contempt of youth not only for parental control but for all law. All the boys mentioned in the book are of teen age; and one of the most damaging things about it, in my opinion, is the way the twelve-year old boys regarded these older teen-agers as heroes and models. Both boys and girls looked upon them as the ideal type to follow.

In this case the defence relied upon the contention that the author had attempted to portray realism. I looked up the dictionary definition of the word "obscene", and it says: "Offensive to chastity, delicacy or decency; expressing or presenting to the mind or view something that decency, delicacy and purity forbid to be exposed; offensive to morals; indecent; impure; offensive to the senses; foul; disgusting; of evil omen." The definition of an obscene publication is, "an indecent publication which, whether true or false, tends to deprave and corrupt."

With this definition in mind, may I say that here is a book which describes in detail

a public dance held by this teen-age gang at which a twelve-year old girl was raped; a book which would indicate that the seduction of girls of teen-age is an everyday affair; a book which describes in detail how two boys attending school, who had a quarrel with their teacher, returned to the school to assault and murder the principal; a book which describes in detail the murder of one teen-age boy by another. These are just a few of the things in this book. If, as the defence contended, this was an attempt to portray realism, I think the minister must be convinced that any crown counsel in future will find it impossible to convince a court or jury that a book is obscene.

In this case the case for the prosecution consisted of the evidence of a police officer of the city of Brantford, who laid the charge, and who produced the book and read some passages from it. One passage he read dealt with this club of teen-age boys, and described how they imported a number of prostitutes for the evening. Another passage described the raping of the twelve-year old girl. The other witness for the prosecution was the principal of the vocational school, who described the book as literary sewage. The defence called a well-known literary critic of a large Toronto paper, a well-known columnist of the *Globe and Mail*, and Mr. Edwin J. Lucas, from New York, who is described as a crime prevention society director. These three witnesses gave evidence that this book had literary value, and that, in their opinion, it was an attempt to portray realism. The book in their opinion was not obscene.

The judge in his decision, as reported in the paper, points out clearly that the responsibility of proving the charge and bringing home a conviction rests with the crown. He says further that it is not enough merely to produce a book and say that it is obscene. The judge says that he has to weigh the opinion of all these witnesses, not in numbers but in content, and he is satisfied that the crown has not proven the charge. The judge goes on to say this:

I have definite convictions on a matter of this character, but I am not going to inject my own views. It is my job to decide whether the crown has proved guilt according to the charge.

The judge further stated that while he would not have such a book in his library, nor would he advise having such a book in the school library, on the evidence presented to him he must render a verdict of not guilty and declare that the book is not an obscene book.