

*Customs Tariff*

That particular principle can easily be lost sight of as we ourselves, in making the laws of this land, are pressed toward the limits that others are always exploiting. It is obvious, in one area and another, that what we have been observing in the last years in the area of pornographic material, as well as in the production of hate propaganda, is no progress. Material has become more and more explicit, more and more extreme, and more and more shocking in both areas in order to create any reaction and, presumably, in order to appeal to the buyer. We have incredible commercialization in both of these areas.

The fact that we have seen such degrading regress taking place only underscores the fact that, while we want to defend liberty, when that liberty impinges on other persons, denies their freedom to be full-fledged citizens in our country and reduces them to some lower state of life, that liberty ends.

The broad reality of the Nazi era goes far beyond the fact of the Holocaust. Nazism represented racism within the state policy. It was not just the destruction of the Jews in those horrifying numbers. It was focused on other peoples of a lower state of life as well. The Slavic peoples of eastern Europe were to be reduced to the rule of the Arian master race as the German armies pressed eastward and established a great imperial domain on the Eurasian continent. That endeavour of the Nazis is the larger reality that can be lost sight of if we focus only on the Holocaust.

The principle that, by reason of their race, people are to be given a lower, subjected, and degraded position is surely a reality of the 20th century that is not unrelated to the questions that face us when we consider the boundaries of what it is right to print or publish for people to buy and enjoy. The result may be that such enjoyment builds a desire to attack others. For example, the "Rapist File" is a publication that is currently causing controversy in Toronto. That controversy was also raised in the local Thunder Bay paper yesterday afternoon. It is questions such as when private enjoyment may lead to public attack that must be dealt with here.

● (1210)

As a member of the Canadian Civil Liberties Association, I am somewhat sensitive to their traditions and views, and when we are concerned about advancing and tightening the values of Canadian society and Canada as a nation, I am somewhat undecided. I think what John Stuart Mill said about the limits on liberty in the 1850s is worthy of our consideration as well. I am confident that Members are willing and eager to support good legislation that is sensitive to the development and enhancement of Canadians about us.

Unfortunately, the previous Government, rather than introduce solid legislation, spent the time of the House dealing with an omnibus Bill. I share the view of my colleague, the Hon. Member for Broadview-Greenwood (Ms. McDonald), that we should soon deal with sound legislation addressing this issue so that Customs officials and law enforcement officials within the country can have a sound basis upon which to deal with these subjects.

**Mr. Deputy Speaker:** Questions or comments? Resuming debate.

**Mr. David Dingwall (Cape Breton-East Richmond):** Mr. Speaker, I will attempt to be as brief as the Hon. Member for Thunder Bay-Nipigon (Mr. Epp). As Members of the Opposition, we have a tendency to oppose legislation, often with great justification. However, Bill C-38 provides us with an opportunity to applaud the Minister of State for Finance (Mrs. McDougall) for taking such quick and decisive action in introducing this particular amendment.

This amendment comes as a result of a decision by the Federal Court of Appeal. The Minister has attempted to make some changes by enhancing the wording with regard to the definition section contained in the Customs Tariff Act. In essence, the Minister is amending a piece of legislation which, in its entirety, is about 117 years old. Many of us who are speaking to this legislation realize that it was antiquated from the beginning. Therefore, it should not be startling to Members of Parliament or the public that this particular section is being amended.

I have some reservations about the extension which is implicit in the Customs Tariff Act as a result of this legislation. Clause 1(b) states "that are deemed to be obscene under subsection 159(8) of the Criminal Code". We support the amendment because it gives Customs officers the power to intervene on behalf of the Government of Canada to prevent the importation of this material. However, by extending the amendment in the words so used, it does not necessarily add to but focuses, I suggest, attention on the confusion.

Section 159(8) of the Act begins: "For the purposes of this Act, any publication, a dominant characteristic of which is the undue exploitation of sex". The Hon. Member opposite knows very well what I am referring to and while he is not an expert in this area, his familiarity with the subject perhaps would benefit this debate.

A review of past litigation with respect to this particular section will show that defence counsel, Crown prosecutors and various experts who have given a determination to assist the judge or the jury in making a ruling have grave difficulties with this wording. The words "a dominant characteristic" are very clear. It does not mean a little or a lot, but "dominant". What do we mean by dominant? Are we required to refer to the literal definition of "dominant" in the *Oxford Dictionary* in terms of exploitation of sex? What is the meaning of "undue"? Does that refer to the standards of a community or to what a university may stand for in that particular community? It is very confusing.

My purpose in drawing this confusion to the attention of Members opposite is certainly not to be disputatious or difficult. I simply draw to their attention the complexities and difficulties with this particular legislation, as amended. It will need further consideration and I am pleased that the Government has added a sunset provision with regard to the amendment.