

Criminal Code

In any event, I thank all Members for their interventions. The allegation is serious and I will give it very careful consideration and report back to the House as quickly as possible because I think a ruling on my part might be helpful to the entire committee which, after all, is charged with very serious responsibilities.

GOVERNMENT ORDERS

[Translation]

CRIMINAL CODE

MEASURE TO AMEND

Hon. Ray Hnatyshyn (Minister of Justice and Attorney General of Canada) moved that Bill C-54, an Act to amend the Criminal Code and other Acts in consequence thereof, be read the second time and referred to a legislative committee.

He said: Mr. Speaker, I have the honour today to address the House to raise a matter of common interest and fundamental significance. I am talking about improving Canadian legislation on pornography which our Government views as a priority. Bill C-54 reflects the Government's commitment to pass legislation to fight against pornography in an effective manner, and to insert in the Criminal Code the relevant provisions it so badly needs.

[English]

Our legislative response is aimed at ensuring the dignity of the individual in Canadian society. All Hon. Members will agree that we must take the steps necessary to protect our children from gratuitous violence, whether emotional or physical, and must protect individuals from degradation and exploitation.

I do not need to remind Hon. Members of what an insidious and pervasive problem pornography is. It degrades the men, women, and children who are portrayed as well as those who are exposed to it. This problem was highlighted by the Fraser Committee which studied both pornography and prostitution and made more than 100 recommendations. The Fraser Committee called for Criminal Code amendments as well as other steps to deal with these two problems.

All Hon. Members realize that the time has come to amend the Criminal Code to deal with child pornography and with material which is sexually violent, exploitative, and degrading. We all recognize that this material is unacceptable.

Bill C-54 is the result of extensive consultations with interested groups and individuals. Much consultation preceded Bill C-114 introduced by my predecessor in 1986. This Bill has further benefited from the public input received since that time.

[Translation]

I received representations from spokespersons for women's groups, religious organizations, artistic circles, museums and

other associations concerned over the proliferation of pornography. In certain cases, I met with these people. Some Hon. Members have also conveyed to me many observations coming from their constituents. I have also received quite a few letters on this issue from the general public.

As a Government we listened to interested people and groups, and we took into account the often diverging opinions they expressed. So we are showing leadership on a question of national interest whose solution is not easy to come by.

[English]

The words "other sexual activity" used in the definition of pornography in Bill C-114 have been deleted from this Bill. We have moved to deal with the worst forms of written and audio pornography which, I emphasize, advocate, encourage, promote or incite sexual acts with children, sexually violent or degrading conduct, bestiality, incest or necrophilia. We have moved to deal with the worse forms of "dial pornography".

At the same time we have responded to concerns of the artistic community by ensuring that a judge shall find an accused not guilty and shall declare that the material that formed the subject matter of the charge is not pornography where the defence of artistic merit is successful.

These proposals represent a very real improvement over the current state of law. Many critics have called the obscenity law vague and imprecise. It may interest Hon. Members to recall and reflect upon the fact that Section 159 of the present Criminal Code defines obscene material on the basis of "undue exploitation", the only test of which is community standards as interpreted by the courts on a case by case basis. The only defence explicitly provided in the current law is that of the public good, on which there is little developed case law. The maximum penalty in the Criminal Code at present for engaging in the production and distribution of obscene matter is two years in prison. This is true even in those cases of the most extreme portrayals of sexual violence and child pornography.

By contrast, Bill C-54 defines pornography as precisely as possible and clearly sets out for the first time defences such as those based on artistic merit or scientific, educational, or medical purposes. The criminal law must be capable of consistent application across Canada. Penalties for dealing in pornography are provided in Bill C-54 to reflect the seriousness of the conduct involved. Ten-year maximum sentences are available where child pornography or pornography involving sexual violence is involved.

● (1600)

This Bill also includes a definition of erotica, meaning visual matter, the dominant characteristic of which is the depiction of certain parts of the body in a sexual context or for the purpose of sexual stimulation of the viewer. This material would be available but controlled in its access to children and its public display.