

*Criminal Code*

necessity of having descriptive words such as "sexual" and "aggravated sexual" in certain sections. I wonder if this does not continue to maintain an undue emphasis on the sexual nature of the offence, however.

I want to adopt the personal view of one of my colleagues, the hon. member for Saskatoon West (Mr. Hnatyshyn). On July 7 he said in the House, as reported at page 11307 of *Hansard*:

It is my personal view that it is wise and advisable for the law to recognize that sexual assaults are crimes of violence and that their sexual character is a secondary feature.

I support that, Mr. Speaker. I have defended theft cases where the whole nature of the offence was sexual—the theft of women's clothing off a clothes line. That was a completely sexual offence, but the charge was obviously theft and the sexual aspect played no part in the trial, the conviction or the sentencing.

On the other hand I defended a brutal rape case where the whole nature of the offence was that the accused wished to prove male dominance over the victim. The fact that it had a sexual connotation had absolutely nothing to do with the offence. The accused could just as easily have taken a knife and carved the poor woman to ribbons without any penetration or any sexual aspect to the offence. He could have done that just as easily because he had to prove that as a male he was going to be dominant over his victim. It troubles me when I see adjectives such as "sexual assault" and "aggravated sexual assault" in the bill.

I wish the committee wisdom in its deliberations, Mr. Speaker. I served on that committee for a number of years and I have profound respect for it. It has some difficult days ahead so I wish it well. I am delighted to see that the minister has entered the House, Mr. Speaker. I understand the heavy burden of work that committee had in this session, but I hope it can and will deal with the difficulties in this bill by listening to the broadest range of views that is possible.

I am the last person to ask that a proliferation of sexual offences be included in the Criminal Code, but I must say that I agree with the National Association of Women and the Law which made three basic points in its brief.

First of all, the lowest level of sexual assault must include an option to proceed by indictment or by summary conviction. I think that must be included in order to deal with what we may feel is the knowing behaviour but which, to some victims, is traumatic, upsetting, disturbing and humiliating. The proper on the subway, for example, or that type of behaviour, could be dealt with by summary conviction at the option of the Crown.

Second, the term "serious bodily harm" should be deleted, in my view, and replaced with "bodily harm".

Third, I believe there should be another level of assault which is parallel to the general assault provisions of the code—assault with intent to maim or endanger life.

I understand the concern there is over sentencing, which has been expressed by the attorney general of Ontario for whom I

have a profound respect—and I do not say that in any partisan sense. He is very concerned with the sentencing provision. I acknowledge the concern of my colleagues and others in the House who make the argument that a reduction in the maximum sentence could lead the public to believe that these crimes are being treated as less serious social behaviour. On the other hand, I am concerned that unacceptable, brutal and humiliating conduct may go unpunished or undeterred because of lack of prosecution. No one should try to convince us that jury equity is only a theory; juries know what the maximum sentence is and will balance it out.

I believe the committee will face its greatest test with the sexual assault clause on the sentencing aspect and I wish them wisdom. I hope they find it from the witnesses who must be called before it.

I notice the minister is now in the House, Mr. Speaker, and I presume he may wish to close the debate. I appreciate having had the opportunity to participate.

**Some hon. Members:** Hear, hear!

● (2120)

[*Translation*]

**Hon. Jean Chrétien (Minister of Justice and Minister of State for Social Development):** Mr. Speaker, I have received comments on Bill C-53 from a number of national, provincial and local associations, from the attorneys general of the provinces, from the ministers responsible for health and welfare and from the general public. I found that the majority supported the proposed legislation and its underlying principles. I have noted these constructive comments for they will certainly be helpful when I consider amending Bill C-53. I shall not go into the particulars of the bill, as there will be ample opportunity to do so in committee.

[*English*]

I am certain that the Justice and Legal Affairs Committee will be inviting many of those who have indicated their interest in this topic to appear before the committee. I am hopeful that the committee will begin consideration of the bill early in the new year. A few hon. members, in their speeches on this bill in the House and in questions posed to me when I appeared before the Justice and Legal Affairs Committee on December 1 have suggested other topic areas, such as soliciting for the purpose of prostitution and bawdy houses, that should be included in this bill. Some of those who have submitted briefs argue that Bill C-53 should tighten the law to specify that "pressing or persistent" conduct would not be necessary to obtain convictions under Section 195.1 of the Criminal Code. Other groups, such as the National Association of Women and the Law and civil liberties organizations, have recommended deletion of Section 195.1, considering that it penalizes mostly women, or, failing that, ensuring that customers who do the soliciting be included in the offence of soliciting for the purpose of prostitution.