

*Criminal Code*

plain principle that the power of punishment is vested in the legislature, and not in the judicial department; for it is the legislature, not the court, which is to define a crime and ordain its punishment." As to enactments creating crimes, the rule was adopted *in favorem vitae* in respect of treason and capital felonies, and extended to misdemeanours.

I have seen the cause and effect of the subject matter of the bill, and I must compliment the hon. member for Kamloops for having called the attention of the house to this particular feature of it. I know that fathers and mothers come before magistrates and judges in criminal courts meeting weekly and plead for light sentences for their children because the parents say the cause and effect of the subject matter was the main reason why they got into trouble.

In the city of Toronto for many years past there have been publications that are not fit to read. Notwithstanding differences of opinion throughout Canada, I believe the subject matter is one which requires the grave attention of the house before we adjourn. The minister should be sure that the cause and effect of the subject matter of the bill have been dealt with adequately and appropriately in order to help the large number of youths of the city of Toronto and the country generally who have been getting into trouble. Many of them have been carrying arms, and so forth. It has been going on for a long time. It is a serious matter for the country, and I hope that we shall adopt some regulation or rule to check it here and now.

**Mr. Applewhaite:** For the information of hon. members generally, I should like to ask whether it is the intention to reprint the bill with the proposed amendment and distribute it so that we will not have to wait until the statutes are printed in order to have copies for distribution.

**Mr. Garson:** Does my hon. friend mean copies for distribution in connection with this debate, or for public distribution?

**Mr. Applewhaite:** That would depend on whether it is the desire to conclude the debate today, in which case it would not be available. If the debate is to be adjourned, however, it would be a great help if it could be distributed.

**Mr. Garson:** I think the desire certainly was to conclude the debate today. That was why I took the text of this amendment to the hon. member who had introduced the original amendment, to make sure it met with his approval. The hope was that if he did approve, the house would accept it and put it through. As to the printing of the bill

[Mr. Church.]

separately for the purpose of law enforcement, and so on, that is a matter which will be taken into consideration.

**Mr. Applewhaite:** I believe all hon. members have had requests from many organizations for information, and if as soon as possible the bill in its final form could be made available for distribution, it would be a great help.

**Mr. Garson:** For that purpose it would be possible for us to get some mimeographed copies which hon. members could incorporate in their letters to their constituents.

**Mr. Fulton:** Would it be possible or desirable to have the bill as amended printed in full for third reading, so that as finally carried it will include the amendment the minister has moved?

**Mr. Garson:** I think we can have the bill printed in a form which will be of assistance to hon. members, but I should not think it would be necessary to hold up third reading for that purpose. We are in committee now. It is permissible for us to advance the bill another stage and give it third reading. Under the circumstances I think it desirable to do that. In the meantime we can proceed to have it printed in a form in which it can be sent out by hon. members to their constituents who have shown a great deal of interest in this matter.

**Mr. White (Hastings-Peterborough):** In his amendment the minister is repealing the present section which deals with the publication and distribution of obscene material and introducing an entirely new section 207. If I understood the amendment correctly, in it the minister more or less defines what is a crime comic; but he said there was no definition of obscene literature, that this was a matter for the courts to decide. It is in connection with obscene literature that I wish to make a few remarks.

Within the last three weeks an important decision was given by an Ontario court on a charge laid under section 207, involving the publication and distribution of an obscene novel tending to corrupt morals. While it is too early for the case to be reported in the law reports, there is a fairly full report in the *Toronto Globe and Mail* and the *Toronto Telegram* of November 24. If the minister ever had any doubt on the point it will have been removed by the opinions expressed by the various attorneys general, which would indicate that so far as future prosecutions for the publication and distribution of obscene matter are concerned there is no hope of securing a conviction.