

Criminal Code

was in every other respect an admirable one, made this remark. He said, as reported at page 518 of *Hansard*:

Might I emphasize once again that, apart from crime comics, if the Minister of Justice, who has the administration of the R.C.M.P. under his department, or if the various cities with their own police forces would take that section of the criminal code and enforce it, sending a few of these publishers to jail for a couple of years. I have no doubt but what it would make a difference in the type of publications in this country.

I must confess, Mr. Speaker, that with a part of that statement I am in agreement. Very probably the result which my hon. friend envisages here would come about. I have not the slightest doubt that sending a few of these gentlemen to jail would have an effect upon that type of publication in the country. But the point I wish to emphasize is that this action is not within our federal power and it is not our federal responsibility.

Even the reference to the Royal Canadian Mounted Police is misleading. It is quite true that they are administered under the Department of Justice, but in that capacity the only offences that they prosecute under my authority as Minister of Justice are offences like those under the Foreign Exchange Control Act, the Excise Act and similar federal statutes.

The governments of Alberta, Manitoba, Saskatchewan and several other provinces, under an arrangement that is in the highest degree in the interest of the taxpayers of this country, pay to this government a large sum of money for the use of the Royal Canadian Mounted Police in these various provinces. Having only one police force to administer both federal and provincial law is much more economical; but what is more important is that it commands a much greater respect for law enforcement and for the administration of justice. But, sir, if under the guise of this police contract, we were, by the control which we exercise through the Justice department over the Royal Canadian Mounted Police, to try to siphon away provincial rights by attempting to direct the mounted police in respect of those matters upon which they are supposed to take directions from the attorneys general of the provinces, it would not be long before the provinces would refuse to renew these police contracts. The plain fact of the matter is that the agreement which covers the renting of these police services to the provinces specifies that, when the Royal Canadian Mounted Police are engaged in the enforcement of all of these laws which come under provincial enforcement, they are the instrument not of the Minister of Justice but of the provincial attorney general and subject wholly to the

latter's control. For that reason, the exhortations and the strictures of the hon. member for Macleod should be addressed not to me but to his good friend, the attorney general of Alberta. When I say that I want to make myself perfectly clear that I am implying no criticism of the attorney general of Alberta, who is an equally good friend of mine.

It may very well be that in that province, under conditions with which I am not familiar, the words "knowingly, without lawful justification or excuse" in section 207 would make it hard to secure a conviction against the booksellers in Alberta. One of the things that the prosecution has to take into account in this connection is that in offences of this nature against morals nothing is worse from every standpoint than an abortive prosecution. To the offender and to the offending publication the advertising value of an unsuccessful prosecution is simply beyond price. I believe it is said that Mae West claimed she got her start in life from having been so prosecuted. Therefore, sir, if there are no such publishers in Alberta—and my information is that there are none—it is not difficult to understand that the crown prosecutors in that province, like the crown prosecutors in those other provinces whose statistics I mentioned a few moments ago, will not be over-enthusiastic about taking on the difficult task of prosecuting Alberta retailers of books, when the crown prosecutors of other provinces have not done anything in the apparently easier task of prosecuting publishers within their jurisdiction.

The debate upon this amendment has shown that upon the one hand there is a huge volume of pornographic literature exposed for sale upon the newsstands of this country and, upon the other, that in relation to this huge volume of exposure and sale there have been in all of the provinces except one a relatively small number of prosecutions. It seems to me, as I have indicated before, that the apparent reason for this inconsistency is most likely to be found in these words "knowingly, without lawful justification or excuse."

Mr. Diefenbaker: Will the minister allow one question? What would be a lawful justification or excuse?

Mr. Garson: If my hon. friend will wait just a moment I shall come to that.

Mr. Graydon: The minister will be lucky if he does.

Mr. Garson: I shall get there if I am not interrupted. I should like to deal first of all with the question of knowingly. As I said, my reason for the view that these words are the crux of the matter is some of the case