

*Criminal Code*

be back to the street for them, working that much harder or back to the seedy hotels to pay off their fines, and being in jail exposes them that much more to criminal influence. There will be a few who will not go to jail, because we all know that the police use prostitutes, in many cases, as a very effective means of surveillance of the community within which they work. Deals will be made because the police will have their club if this Bill passes. Certainly the police will use it and they will use it with a vengeance.

The Government has brought this Bill forward because the police have thrown up their hands and said, "We are powerless to act. We have no tools. We need this change in the criminal law".

It might be one thing for the police to come before Parliament if they had tried to use the existing tools but they have not done that. I speak of the existing nuisance provisions of the Criminal Code and of other provisions of the Criminal Code, of provincial highway traffic legislation, of by-laws, not those rejected by the Supreme Court but by-laws which were carefully drafted by local municipalities to respond to the concern of those municipalities about nuisances in residential communities.

Where by-laws have been carefully drawn, they have been upheld by the courts. The Minister himself conceded that the Montreal by-law was upheld by the courts. Surely it is within the constitutional jurisdiction of a local community to say that it is not prepared to accept that kind of harassment and nuisance in its community. Indeed, I want to commend the Mayor of Ottawa, Marion Dewar, for the sensitive approach that she has taken on this question. She recognized that it is not acceptable in her community, just as it is not acceptable in any other community, for soliciting to take place in residential areas. Therefore, as a result of a combination of community policing and other measures which she has been prepared to take, prostitution and soliciting have not been problems in residential communities. In fact there are alternatives. I very much regret that in my view it is residents of areas such as Mount Pleasant and of the west end of Vancouver, until the injunction, who have been manipulated and used to a certain extent as guinea pigs in the fight by police forces for this repressive legislation.

● (1220)

We will see the revolving door syndrome. In fact, this Bill will make prostitutes more reliant on pimps to obtain customers for them. If they cannot solicit in a public place and if any place where they are acting in private is considered a bawdy house, the only way they will be able to obtain customers is through reliance on pimps. Certainly that means increased violence and the possibility of more organized criminal involvement in prostitution.

By adopting this Criminal Code approach, prostitutes will be given criminal records, which, once again, makes it that much harder for them to get off the streets and out of prostitution. It condemns them to remain in that vicious cycle

of arrest, fine, back to prostitution, more violence and ultimately, in many cases, death.

I have mentioned the problem in terms of threat to civil liberties. In that context I want to mention as well the very real threat to women who in fact are lawfully going about their business in our communities. Under the provisions of this Bill, those women can be harassed as well by the police as they go shopping or as they wave at someone they recognize in the street. This Bill opens up tremendous possibilities of abuse with respect to women who are not in any way engaged in prostitution but will be subject to harassment under the provisions of the legislation. The approach is a piecemeal one. It is an approach which has been explicitly rejected by the Fraser Commission. Certainly it is one to which we in the New Democratic Party are strongly opposed.

I have mentioned the rejection by the Fraser Commission of both the short-term response of the Government and of its failure to move forward in terms of meaningful social and economic programs. The Fraser Commission indicated that it saw no virtue in replacing the present system with a more repressive regime. It indicated that there was no evidence in the history of this country or of those countries such as the United States which retain a Draconian system that the results of such a move would justify it. Indeed, we are inclined to think that a move in that direction would subvert any attempt to treat prostitution sensibly as a major social problem. Despite that, the Government insists upon proceeding with this legislation.

I have mentioned that in fact there are alternatives. What are those alternatives for residential communities? I have talked about the possibility of the Criminal Code provisions already in effect being used—the nuisance provisions of the Criminal Code. For example, Section 171 of the Criminal Code makes very clear reference to a number of the acts which are going on in residential communities and which we recognize as unacceptable. There are other provisions of the Criminal Code as well which could be used. I am not convinced that where conduct is aggravating and pressing the police could not move forward even under the existing provisions of Section 195 of the Criminal Code. They do not have to rely on that in residential communities. As I said, there are the existing provisions of the Criminal Code. There are provincial laws with respect to traffic—highway traffic and impeding traffic. There is a whole series of municipal laws and indeed the possibility of municipal by-laws. It is argued that a municipal by-law is like a ticket. However, the reality is that the greatest risk for a customer is exposure. A customer does not care whether he is charged under a traffic by-law in the City of Vancouver or under the Criminal Code of Canada. A customer is afraid of public exposure of his name. I suggest that a name can be exposed just as effectively under a traffic by-law as it can under the Criminal Code of Canada.

There are alternatives. I have mentioned the alternatives within the legal framework. Certainly there are alternatives within the social framework in terms of greater community policing and collective community action to deal with these