

Customs Tariff

any public place, incites hatred against any identifiable group where such incitement is likely to lead to a breach of the peace is guilty of an indictable offence and is liable to imprisonment for two years. The Crown can also proceed by way of summary conviction. Genocide is defined in Section 281.1, and we are satisfied that that definition is acceptable.

● (1200)

The hate propaganda section of the Code could be amended to deal with the Zundels and Keegstras. I note, Mr. Speaker, that you are indicating that my time is almost up. I just want to indicate in closing that the Government will have to take a hard, serious look at the Code provisions, including Section 281(8) dealing with hate propaganda, to see what must be done in order to address the Keegstras and Zundels of society.

In conclusion, I would like to indicate that we in the Liberal Party whole-heartedly support Bill C-38. We believe that it is necessary. We recognize that it is a stop-gap measure. There is a sunset clause in the legislation: the legislation will cease to have effect on June 30, 1986. That is about a year and two months away. We hope the Government will act more quickly than that to bring in legislation to deal with pornography. I understand that the Fraser report is about to be tabled. The Government will seriously consider the report and, no doubt, the committee will hear representations from concerned Canadians from coast to coast on this particular matter, and legislation will be forthcoming.

I urge the Government to speed up the process with respect to hate literature and pornography in the country because it is a serious problem. All Members in the House want to address the issue forcefully.

Ms. McDonald: Mr. Speaker, I have only a brief comment. In his address the previous speaker quite misrepresented my remarks. Contrary to what he said, I agreed with the ruling of the Federal Court of Appeal that the wording in the Custom Tariff Act was too vague. I did not applaud it. I do not know that one applauds court rulings, but in my opinion it was certainly a correct interpretation of the law.

At no time did I say it was ironic that the court had made that decision. My use of the word "irony" was to point out the irony that lawyers and defendants should be using the Charter of Rights in defending pornographers or hate propagandists. It is ironic that the Charter should be used by people who want to oppose the very freedoms and equalities which the Charter is supposed to be guaranteeing. It is very ironic that an instrument such as the Charter of Rights, which is supposed to be protecting us, should be used to promote pornography or hate literature.

I have a great deal of confidence that the courts will not allow this to happen and that any reasonably defined definition in legislation would be acceptable. The courts have shown a great deal of wisdom in recent decisions. I refer to one in particular which came up with a better interpretation of the current obscenity laws in the Criminal Code. It is actually in the wording itself. I think the courts are moving in the right

direction and I have a great deal of confidence that a well-worded definition in the Criminal Code and in the Customs Tariff Act will be respected by the courts and that the Charter of Rights will indeed have its intended function.

Mr. Nunziata: Mr. Speaker, while the Hon. Member for Broadview-Greenwood (Ms. McDonald) would not applaud the decision, I applaud it. I think all civil libertarians, all those who believe in freedom of the country, all those who believe in the Canadian Charter of Rights and Freedoms, should applaud it. The court is defining the limits of what the Government can and cannot do with respect to limiting specific freedoms. Although an individual may want to import pornography, what is important is the freedom of expression and the definition of that freedom. The courts are attempting to ensure that civil liberties are enhanced in the country. The courts want to ensure that people have those rights.

I do not think it is so ironic that individuals, even those who might import pornography into the country, should refer to the Charter of Rights and Freedoms. They have the right to refer to the Charter because it is the supreme law in the country. If the courts, in their wisdom, tell these individuals that they are wrong and that there are reasonable limits within which they can restrict freedoms, that is fine. However, if the courts say no, we should applaud the courts for upholding civil libertarian values in the country.

Mr. Ernie Epp (Thunder Bay-Nipigon): Thank you, Mr. Speaker.

Mr. Taylor: Question.

Mr. Epp (Thunder Bay-Nipigon): Is there someone with a question?

Mr. Taylor: Yes, we want to vote on it.

Mr. Epp (Thunder Bay-Nipigon): Just a few moments, my good friend. The last comments have further underscored the issues involving liberties which clearly arise at the basis of the kinds of questions we are dealing with in considering this particular Bill for speedy passage today. I do not want to speak for very long and in any way delay that action. Given the hour of the day that we are at, I am sure that we shall in fact complete our work here.

Surely it is worth recognizing that in the clarification of the principles of liberty, which has gone on in the English speaking world over the past couple of centuries, the argumentation which the last speaker was making in defence of his applauding a decision can bring us very close to boundaries which that great 19th century philosopher of politics and society, John Stuart Mill, recognized when he wrote on the matter in the 1850s. His memorable essay on liberty, which I am sure is familiar to many Members, made clear the far-reaching liberty which each individual must have. It also states as clearly as anyone could ever state that my liberty ceases where it impinges on the liberty of other persons.