

*Government Orders***GOVERNMENT ORDERS**

[English]

CRIMINAL CODE

MEASURE TO AMEND

Hon. Gerry Weiner (for the Minister of Justice) moved that Bill C-128, an act to amend the Criminal Code and the Customs Tariff (child pornography and corrupting morals), be read the second time and referred to a legislative committee in the Departmental envelope.

Mr. Rob Nicholson (Parliamentary Secretary to Minister of Justice and Attorney General of Canada and Minister of State (Agriculture)): Mr. Speaker, I am pleased to rise in the House today to speak on Bill C-128. This bill amends the Criminal Code and the Customs Tariff to specifically prohibit child pornography. We are taking important steps to protect children from sexual abuse and exploitation.

The government is responding to the calls of the Canadian public to curb the flow of child pornography. I share that concern.

• (1505)

As I stated at the National Symposium on Community Safety and Crime Prevention held in Toronto in March, children matter. They are the most vulnerable members of our society. They are vulnerable to emotional, sexual and physical abuse. Our children must have the opportunity to grow up in safe, nurturing communities protected from such abuse.

The purpose of a law specifically addressing child pornography is to deal with the sexual exploitation of children and to make a statement regarding the inappropriate use and portrayal of children in media and art which have sexual aspects.

Our message is that children need to be protected from the harmful effects of child sexual abuse and exploitation and are not appropriate sexual partners.

By way of background, hon. members will recall that the Supreme Court of Canada upheld the definition of obscenity in the Criminal Code in its February 1992 decision in the Butler case.

In that decision the court was asked to determine the constitutional validity of the current definition of what is

obscene as found in section 1638 of the Criminal Code. This definition is intended to deal with material where a dominant characteristic is the undue exploitation of sex, or sex combined with one or more of the subjects of crime, horror, cruelty and violence.

In the Butler judgment there is a clear statement from the Supreme Court that pornography which contains explicit sex and employs children in its production qualifies as the undue exploitation of sex. As such its production and distribution are prohibited by the provisions currently in the Criminal Code.

What the Criminal Code does not currently prohibit is the simple possession of child pornography, nor does it contain specific statutory prohibitions against such pornography.

Members of this House will recall that two special committee reports commissioned by the federal government, the Badgley report in 1984 and the Fraser report in the following year, recommended that there be amendments to the Criminal Code to specifically prohibit child pornography. It was also recommended that such amendments be limited to visual representations or depictions of explicit sexual conduct involving persons under the age of 18 years.

There was concern then and there is concern now with the especially compelling nature of visual materials in delivering a message.

More recently, in 1990 the special advisor on child abuse to the Minister of National Health and Welfare, Mr. Rix Rogers, recommended that legislation be introduced to address the protection of children from the harmful effects of pornography. This would include a revision of the Criminal Code with harsher penalties for using children in the production of sexually explicit material.

Bill C-128 introduces those specific amendments to the Criminal Code which address the problem of child pornography. The proposed legislation includes a definition of child pornography and new offences for the distribution, sale, production and possession of child pornography based on this definition.

As I have stated, the production and distribution of these forms of child pornography are currently prohibited but their possession is not.