

### *Child Pornography*

onment for six months plus a fine of \$500, or simply to a fine in the amount of \$500.

If, as this bill presupposes, child pornography is a problem which has reached proportions justifying the creation of separate penalty and offence provisions in the Criminal Code, then one would expect that such an offence would merit greater maximum penalties than more general obscenity convictions would suffer. Instead, under the legislative scheme of Bill C-211 the penalty provisions are roughly comparable. This being the case, one wonders what the basis is for the provision at all inasmuch as the general provisions of the Criminal Code, or even of Bill C-211, dealing with obscenity appear to be equally applicable to obscene things and sexual acts involving the use of children.

● (1742)

To recapitulate, the validity of the premise upon which Bill C-211 is based is certainly open to serious question and substantial doubt. The bill proceeds on the basis that its authors have formulated an objective standard, but close examination reveals that this ideal has not been realized. Once again it is a question of the difficulty of trying to define the terms. I am sure the author of the bill realizes the difficulty still exists. Conceptually, one must acknowledge that there are great difficulties in attempting to formulate any workable objective standard. Finally, it must also be admitted that even a standard which on its surface appears to be objective is nevertheless subject to the subjective interpretations of judicial decision-makers. We all know how the courts can go from one extreme to the other. From court to court there can be a difference in the view that is taken.

With reference to the specifics of Bill C-211, there is serious reason to believe that both the content and the potential effectiveness of the bill are gravely deficient. Alternative schemes for dealing with child pornography have recently been before this House and will shortly be again. The penalty provisions of the bill are somewhat inconsistent with the intention of the legislation and consequently the passage of these measures would be ill-advised. Rather than proceeding further with Bill C-211, it is desirable that we maintain the status quo until clarification and redefinition of the existing law can take place on a better basis.

It should not be forgotten that there are those in the Canadian public who have argued that the existing law is satisfactory both as formulated and in practice. If there are problems, these people contend that they arise from discrepancies in enforcement. Enforcement decisions are discretionary matters for police officers and prosecutors who, as we all know, are individuals who have to act according to the climate of opinion in their local community. I suppose in this context we are taking the local community standard, although as we all know the standard can vary from community to community. Proponents of the status quo further contend that these local discretions provide a useful buffer between legislation which can only be defined in broad principles and which,

[Mr. Robinson.]

because of its very subject matter, cannot provide elaborate, unambiguous guidance in specific cases.

As mentioned, the government has a commitment to the clarification and redefinition of the existing law. This, I understand, is the kind of request the hon. member was making and I am quite sure it is the intention of this government to carry out this kind of commitment. We are concerned with more than a mere "tidying up" of the present Code provisions and are of the view that major policy changes are necessary. We are also mindful of the fact that it would not be useful to permit obscenity laws as presently written to be swept out lock, stock and barrel. The present approach as evidenced in Bill C-51, an approach which, as we have mentioned, is subject to possible change, is to extend and expand the present legislative framework.

Our concern over child pornography is manifest and we recognize particularly that new provisions for dealing with this problem are urgently needed. While saying this, however, we are of the view that the provisions contained in Bill C-211 are not sufficient for this purpose.

To a certain extent, while we are aware that this problem must be tackled, we must also realistically acknowledge that it is unlikely that it will ever be totally solved. The subject matter which constitutes obscenity and the circumstances in which such material is regarded as being justifiably exposed to, changes over time.

While we as a government share the author's views with regard to the bill, we feel that existing law has been unable effectually to moderate the flow of pornography and that Bill C-211 does not change this situation substantially. A great deal more work has to be done with regard to the whole question of pornography.

A further point I should like to mention concerns the report submitted by the Standing Committee on Justice and Legal Affairs on the whole question of expert witnesses. This seems to me to be a real problem. I find it rather difficult to see why there should not be expert witnesses, whether psychologists, psychiatrists, other professionals or lay people with a great deal of experience, or members of the cloth. It seems to me that to deny the right for people to appear as expert witnesses is one shortcoming of the report prepared by that committee.

**Mr. Benno Friesen (Surrey-White Rock):** Mr. Speaker, I should like to begin by extending my compliments to the hon. member for Provencher (Mr. Epp) for bringing this legislation forward. I feel it is necessary for this House to consider it and pass it to committee stage so that it may be enacted into law.

Once again we see that some members of the House would rather preserve the sanctity of the purveyors of pornography than the sanctity of children who become victims of it.

**Some hon. Members:** Oh, oh!

**Mr. Friesen:** Is it not so? Listen to them. I hear the hon. member for New Westminster (Mr. Leggatt) say "oh". He now becomes the authority on art and wants to preserve the Bible. He contends that the Bible could not be read if this bill