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12 April 2002

By Hand

Mr Raymond Lam
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Hong Kong

Dear Mr Lam,

LegCo Panel on Security
List of follow-up actions required of the Administration

I refer to your fax dated 2 April 2002 and enclose the Administration's response to number 5 of the outstanding items regarding proposed legislation for the prevention of child pornography.

The enclosed information includes the following -

- (a) the Hansard for Second Reading (dated 3 June 1993) and Third Reading (dated 15 June 1993) of Bill C-128 of Canada, which amends the Criminal Code and the Customs Tariff to specifically prohibit child pornography (**Annex A**).

The records of the debates largely reflect the deliberations of the relevant committee;

- (b) a table setting out the definitions of child pornography in Australia, Canada, the United Kingdom and the United States which adopt either 16 or 18 years of age as part of the definitions (**Annex B**); and
- (c) specific Web site addresses containing examples of prosecution cases against child pornography in overseas countries (**Annex C**). A diskette containing a file of Annex C is also enclosed.

Please note that the enclosed information is only readily available in English.

Yours sincerely,

(Rick Chan)
for Secretary for Security

C.C.

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Annex A

20328

COMMONS DEBATES

June 3, 1993

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.

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While child pornography may not now be generally available on a commercial basis in Canada, we know that it is home-made by paedophiles who have communication networks and exchange clubs. These are persons who share an interest in sexual activity involving children and commonly exchange photographs they have taken of children who have been the objects of their abuse. These photographs and videos are palpable evidence of the sexual abuse of these children.

By making simple possession of child pornography an offence it is our intention to dissuade such activity. We have been urged to take this step by many, including law enforcement personnel who have seen the lack of an offence for the simple possession of such materials as a barrier to curbing the flow of child pornography.

• (1:510)

In addition, by creating an offence for simple possession and introducing legal sanctions against the consumer, we attack any commercial market for these materials such as videos, magazines or computer programs which involve or depict children engaged in explicit sexual activity and reduce the incentive for their production.

The definition proposed refers to a photographic, film, video, or other visual representation whether or not it was made by electronic or mechanical means that shows a person who is or is depicted as being under the age of 18 years and is engaged in or is depicted as engaging in explicit sexual activity.

Hon. members will note that the proposed definition refers to a person who is or is depicted as being under the age of 18 years. We have chosen to include depiction of persons as being under the age of 18. That is because failing to include depictions would be seen as failing to address an issue of concern to many Canadians, that the children not perceived as appropriate objects of sexual interest including depictions in the definition serve to prohibit pseudo child pornography, that is where adult models are presented to appear as children which is more openly distributed than other forms of child pornography, but still nonetheless promotes the sexual abuse of children.

It is important to protect children who directly suffer the harms of sexual abuse and exploitation in the

production of child pornography, but also others, by denouncing the message that child pornography conveys to the consumer of these materials: that children are somehow appropriate sexual partners.

In limiting the proposed definition of child pornography to visual representations, we have focused on those materials which most clearly require or motivate the sexual use and exploitation of children in order to protect them from child sexual abuse and related harms.

Written materials will continue to be dealt with under the current provisions of the Criminal Code, as upheld by the Supreme Court of Canada decision in *R. v. Butler*.

Offences have been created for the production, distribution and sale of child pornography which are subject to terms of imprisonment to a maximum of 10 years. In addition, the possession of child pornography is subject to a term of imprisonment not exceeding five years. These offences are hybrid. That is, they can be made on an indictable or a summary conviction offence, depending of course on the circumstances of each particular case.

The defence of artistic merit or an educational, scientific or medical purpose in Bill C-128 is not one which places a persuasive burden on the person charged with one of the child pornography offences. The availability of such a defence is important for ensuring that the reach of the legislation does not extend to forms of expression which the courts consider beneficial to society, such as health education.

It is essential to include this defence in the proposed legislation in order to protect the freedom of expression rights which are clearly entrenched in the Canadian Charter of Rights and Freedoms. There may be materials which depict children under the age of 18 which may represent some artistic merit or for some other purpose and, as such, deserve the protection of the Criminal Code.

We have also introduced consequential amendments to the Criminal Code which would serve to include the child pornography offences in the definition of offence in part VI of the Criminal Code so that the electronic surveillance provisions will apply. In the definition of enterprise crime offence of the Criminal Code they will fall under the proceeds of crime provisions as well.

Government Orders

As a consequential amendment to the Customs Tariff Act the definition of child pornography will be incorporated in schedule VII to the tariff. This will provide customs officials with the necessary authority to ban the importation of these materials into Canada. This, of course, will be bad news for those individuals who would love to try to import this sort of material into the country. We have seen to it that they will continue to be blocked.

In summary, Bill C-128 will amend the Criminal Code to include a specific definition of child pornography and offences for the possession, production, distribution and sale of such materials as defined. It would subject those accused of these offences to greater penalties upon conviction than those currently associated with the obscenity sections of the Criminal Code.

• (1515)

We need to reinforce the message that children are in need of protection, that they are not appropriate sexual partners. Conduct which fosters and exploits the harm and humiliation to which children are exposed must be punished.

Bill C-128 supports the government's commitment to the well-being of children as outlined in the protection component of the Brighter Futures initiative which was announced by the Minister of National Health and Welfare in April of last year.

This bill is yet another step in ensuring a brighter future for all of Canada's children. I urge the members of this House to deal with this legislation expeditiously. If and when this becomes the law of Canada, and I believe it will, hon. members can take the satisfaction of going home this summer knowing that this country is a better place in which to live because we have criminalized the possession of child pornography.

[Translation]

Mr. Langlois: Mr. Speaker, I rise on a point of order.

The Acting Speaker (Mr. Paproski): The hon. parliamentary secretary on a point of order.

Mr. Langlois: Mr. Speaker, if there is any time left when we have completed second reading of Bill C-128 today, I would like to request the unanimous consent of the House to proceed with third reading of Bill C-123 later today.

[English]

The Acting Speaker (Mr. Paproski): Does the hon. member have unanimous consent?

Some hon. members: Agreed.

Mr. George S. Ridenout (Moncton): Mr. Speaker, it is a pleasure to rise on Bill C-128. I guess we could say that it is about time. There has been a flood of justice legislation over the last number of weeks. We are always faced with time constraints in trying to get legislation passed before Parliament is through for good and we are into an election.

We on this side are faced with the conundrum of not wanting to pass legislation in haste but at the same time wanting to do something that is good. We faced that dilemma with Bill C-126, the stalking bill. The committee met until last night at 10 o'clock to try to get a good bill before Parliament and finished before the session is over.

This is another example of a piece of good legislation that probably needs some fine-tuning by committee. I only hope the government will allow enough study of this particular bill while it is in committee. I hope it will not adopt the jackboot tactics it has used with other legislation, particularly Bill C-90, of trying to force legislation that needs to be studied through in a matter of hours or minutes.

That being said, we are supportive of this bill going to committee and receiving the necessary study. I do not think anyone would question that pornography has been with us almost since the beginning of history, from the time we learned how to draw.

We have seen the pornography industry grow from a \$5 million industry in the seventies to a \$10 billion business today. That is reprehensible when one considers that kind of money is generated from that kind of trade.

What is really even more reprehensible is the growth in child pornography. For that we say to the government: Good for you, that you are bringing this legislation forward. One thing that is a little irksome is that in the minister's own background documentation it says that the government has been urged to bring this legislation forward since 1984. Here we are in 1993, in the dying days of this Parliament, and now we are presented with the bill.

• (1520)

There are some complications in the legislation. This is not easy legislation with which to deal. Pornography is difficult to define and difficult to legislate so that it is not struck down once the courts start to have their effect.

I am sure we have all been through the number of different decisions and concerns. It was gratifying to see that the Butler decision of the Supreme Court of Canada opened the door to allow us to legislate in this area. It allowed legislation on all pornography which is degrading, dehumanizing and violent. I do not think there is anything more dehumanizing than child pornography.

I have some concerns as to whether the definition as contained in Bill C-128 goes far enough. I will read proposed subsection 163.1(1) of the Criminal Code into the record because I think it is important:

163.1(1) In this section, "child pornography" means a photographic, film, video or other visual representation, whether or not it was made by electronic or mechanical means, that shows a person who is or is depicted as being under the age of eighteen years and is engaged in or is depicted as engaged in explicit sexual activity.

That definition is very broad and leaves it open for an interpretation as to what constitutes explicit sexual activity and how far that would go.

I am looking forward to hearing some evidence from experts in the field as to how we could tighten up that definition and describe what we are prepared to allow and what we are not prepared to allow.

There are other sections in the legislation which are positive. The parliamentary secretary referred to it. This is going to be an interesting one because again in proposed subsection 163.1(4) it says that every person who possesses any child pornography is guilty of an offence, either an indictable offence or a summary conviction. It is going to be interesting to see how that is going to be applied. I think it is a good idea and I am hopeful that it can be effective. However it is a very broad ranging situation as to what constitutes possession and what type of offence will flow from that.

Again we see a very clear indication as to why the committee needs to spend the time and effort to come up with a good law. I know that in our deliberations on Bill C-126 dealing with the anti-stalking legislation the committee worked hard and made the changes that were necessary to make good law.

Government Orders

It seems that the opposition members are always stuck with the responsibility of trying to improve on what the government puts forward. They never really get it right the first time. I think there are some loose ends in this legislation that are going to require those types of efforts from opposition members.

It is a good piece of legislation in general. There is another excellent section on making child pornography an indictable offence as well with a penalty not to exceed 10 years. This again is an excellent idea. It shows that we take this thing seriously and that it is not a matter of a summary conviction or a small sentence of a year or two.

When we in Parliament indicate that 10 years is the maximum then we are signifying our concern with respect to child pornography. We are signifying our concern about all of pornography when we start on this basis.

We on this side of the House are pleased really for two reasons. First, it is here. I believe we will have enough time to get the legislation through. Second, it is another time in which the Conservative government has taken one of the Liberal planks and has tried to adopt it before we are the government.

A few weeks ago after I had introduced a private member's bill on anti-stalking, the government finally came forward with some legislation. We had announced our crime prevention platform. In it was included crime prevention and anti-stalking legislation. Lo and behold shortly thereafter the government came forward with this type of legislation.

• (1525)

We did the same thing with respect to child pornography that was a platform of the Liberal Party. Now this government has come forward with child pornography legislation.

I think that if we keep announcing our platform we will finally see some good legislation starting to come from this government but perhaps there is not enough time left.

In any event I know that I am sharing my time with my colleague from Dartmouth and for that reason I will simply say that we are supportive of this going to committee. We are supportive of giving the committee enough time to really study this legislation to finally get the legislation correct.

Government Orders

Mr. Ron MacDonald (Dartmouth): Mr. Speaker, I want to commend my colleagues from Moncton and Cape Breton—The Sydneys for the work that they have done in their critic portfolios, not just recently but over the last number of years, in dealing with issues such as this.

Surely one of the issues that must seize all parliamentarians and I guess all Canadians is the safety of our children. Clearly one of the things that constitutes an abuse or violation of the safety of our children is pornography.

The Liberal Party and my friends from Moncton and Cape Breton—The Sydneys have worked very hard and diligently on this particular issue over the last number of years. Indeed the Liberal Party policy position just a few weeks ago clearly indicated some of the things we felt should be done in the field of justice administration in order to try to rectify some of the abuses that currently are no longer acceptable and perhaps were never acceptable to Canadian society.

I also want to commend my colleague from Saskatoon. About a week ago he had a private member's motion before this place dealing with this exact subject matter. I said in my speech at that point in time that it was unfortunate that the partisan nature of this House does not allow for members to seek unanimity on issues even as important as this. It is an issue that I think all members of the House would agree has to be dealt with in an expeditious manner in this place.

Clearly one of the problems we have, as my colleague said, is that there has been a number of pieces of legislation which have been long overdue that were brought in by the government in the last five days that this Parliament sits.

It is very clear it is using these real issues, such as stalking, child pornography and a whole host of justice issues, to put pieces of legislation on the floor of the House in the dying days of the Parliament. It will probably not pass many—if any—of them and then it will run a law and order platform in the upcoming election campaign. If it does that then they should be condemned and damned for it.

We are talking about fundamental changes to protect our youth, our children, in this country. I do not know why these changes were not brought forward a long time ago.

We have heard from our critic, the member from Moncton, and we will hear from the New Democratic Party. There is a unanimity of opinion in this House that this issue has to be addressed. There is a unanimity of opinion in this House that a law dealing with stalking has to be addressed.

The difficulty is when the government opposite decides that it is much too busy doing other things and it is only going to try to showcase at the end of a Parliament some pieces of progressive legislation so they can run on it. It is truly despicable.

I hope that the government opposite is serious about pursuing this matter in a proper fashion and allowing the committee to hold quick but detailed hearings on it so that for once we can say that this Parliament has produced some legislation which has corrected some flaws in our laws and has protected the most vulnerable in our society and that is our children.

I think everybody would agree that people who exploit children for a sexual purpose and for profit are pretty despicable and low lifes. There is no question. To take the most precious of our resources, that is our children, and to use them in that manner for profit or for whatever other reason is simply despicable but it happens all too often.

• (1530)

I was just reading something about pornography and the increased availability of pornography. It clearly indicates that there are tens of thousands of children per year in Canada who are used by these unscrupulous—and the word I am thinking about is not parliamentary—individuals who sexually exploit young people and juveniles for profit.

There may be some problems with the bill and I am hoping that we will be able to deal with them quickly at committee. I am not the justice critic. I am just an individual who has real concerns because I have three children. This is the type of legislation that has to be passed.

June 3, 1993

COMMONS DEBATES

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Government Orders

One of the things that concerns me is right at the beginning of the bill and it deals with the definition of child pornography. The definition says:

"child pornography" means a photographic, film, video or other visual representation, whether or not it was made by electronic or mechanical means, that shows a person who is or is depicted as being under the age of eighteen years and is engaged in or is depicted as engaged in explicit sexual activity.

That is the definition under this bill of child pornography. I have a little difficulty with that and perhaps some of the legal minds who will be looking at this in committee will make me feel a little more comfortable.

It is not just enough to talk about explicit sexual activity. There are people who prey upon young people for profit and take pictures of our children in positions of undress so that they can sell them to people who get their sexual pleasure this way. I think the definition should be broadened so that any exploitation or exploitative measure that is meant to sexually stimulate other individuals by way of the depiction should be considered obscene.

The difference between the definition of pornography and erotica is vastly different when we are not dealing with juveniles. When we are dealing with juveniles it is surely a much different situation. The definition of what is pornographic must be tougher when we are dealing with juveniles than when we are dealing with adults.

Clearly most of the provisions of this bill are laudable. It is something with which we absolutely have to grapple. There may be some technical things that we have to fine tune. One of the things the opposition is hoping is that the government will fully co-operate with us in allowing this bill to go to committee and make available immediately all of the appropriate officials from the Department of Justice so that we can get on with our business of fixing this particular piece of the Criminal Code.

The other thing that has to be looked at seriously is the issue of sentences. When we are dealing with sentences for the production of this material and for the distribution of this material then a maximum sentence of 10 years is probably pretty appropriate. We must have a sentence that is long enough to act as a deterrent to those individuals who are intent upon exploiting our children for sexual purposes and for profit.

I would like to once again say that our party and the New Democratic Party, members of both parties, have over the past number of years continued to raise this

issue. We have tried to put it on the front burner of the government opposite when we are dealing with legislation.

Indeed, the former Minister of Justice, the pretender to the Tory throne—

Mr. Nicholson: The next Prime Minister.

Mr. MacDonald (Dartmouth): The Minister of the Environment might have something to say about that. The former Minister of Justice, who likes to tout herself as somebody who has been extremely progressive and has brought forward all these pieces of legislation that Canadians have long needed, told us back in 1990 that the government was looking at it. It was a very complex matter.

For anybody out there who wants to know why we have had to wait from 1990 until the sixth last day of this sitting to get the bill I want to show why. It is because altogether this bill has four pages. It took this government three solid years to put together a four-page piece of legislation to try to stop the bottom dwelling, pond scum who exploit our children sexually.

• (1535)

The Liberal Party on this side of the House, I know the New Democratic Party, who will speak next, and I would hope all members of the House will support this legislation as a priority, that we would have very quick hearings, that the Minister of Justice would give us his assurance today that he will treat this in an expeditious manner and make available the appropriate departmental and justice officials so that by the time this Parliament rises we will have a bill that will put an end to the exploitation of our children.

Mr. Ian Waddell (Port Moody—Coquitlam): Mr. Speaker, I acknowledge you and welcome you to the chair. It is good to have an Albertan in the chair.

I am going to speak for 10 minutes and then let my friend the hon. member for Saskatoon—Clark's Crossing, another westerner, speak for the remaining time.

I want to be quite plain. Since this government was elected in 1984 there has been a special committee on child pornography in 1984, 1985 and 1990 that recommended that Ottawa address this issue. It was not until May 13 of this year, with 24 days scheduled in Parliament at that time, with the House supposed to finish on June 23 but now it may shut down before then, that the government chose to introduce this bill.

Government Orders

If one were a suspicious person one would think that maybe the government is just doing this for a little bit of window dressing and for a future election campaign. However we will treat it as serious because it is a serious matter that has to be addressed.

I would like to explain why we in the New Democratic Party are supporting this bill, although we have some questions and some concerns. I have some concerns because I am basically a civil libertarian and I worry about the restriction of personal freedoms and especially the freedom of the press and the print. However the real question we have to examine concerns why most right-thinking people are against child pornography.

The reason is that the victims of child pornography, the children who are exploited to do this, can later become abusers themselves. A professor in Simon Fraser University's department of criminology, Dr. Ezzat Fattah, is a distinguished criminologist, and one of my constituents, and has written extensively on this issue. He shows how the victims become the criminals.

We in the NDP have set forward a policy, and I know there is support in other places in this House. We would get tough on violent crime and violent criminals but we would also work toward crime prevention.

This bill encompasses both because I think it is ultimately aimed at crime prevention. The Badgley commission recommended such a bill, although I am not sure it dealt with possession. The previous law did not deal with possession and this bill does. The Fraser commission recommended it. In a report to the ministry Dr. Rex Rogers talked about protecting children.

I think all of us in the House feel that we want to protect children and we want this matter dealt with. There is not an industry in Canada or the United States. It comes from offshore. This material is circulated privately.

One of the statements that concerns me is a statement by a metropolitan Toronto police officer. Sometimes the police have been guilty of seizing too many things and of being too zealous in these matters. However he made an interesting statement. He said: "You cannot have child pornography without having child abuse". That is why we are supporting this bill.

We have a whole slew of justice bills, about six bills. They are all going into the committee. I was joking today that I feel like I have the legs of a Texas line dancer, going from committee to committee to committee. We want to give this a hearing.

Remember what the former Minister of Justice said: "Let us have inclusive justice". Inclusive justice means that people from all sides come in and discuss the bill, we have a good hearing and then we get the best bill possible. Then it will hold up in the courts and will not be thrown out as unconstitutional.

• (1540)

I understand that the government can proceed on this partly due to the Butler decision in the Supreme Court, which clearly gives an opening for a law that deals with child pornography. That is another reason that we are supporting the bill.

I want to strongly draw it to the attention of the House, and it might take a little bit of courage to do this at this time, that there is a civil liberties angle to this. We have to be careful not to restrict people's right of disseminating information, no matter how much we dislike the information or what people are saying or arguing. People have a right to argue positions and we may not like them. I am not talking about visually depicting child pornography. I do not think there is any argument there. There is some argument with respect to the written word and what different groups have been advocating. This is a tough area. It is not in the bill and I do not think it should be in the bill. Others may have different viewpoints.

Alan Borovoy, who is the distinguished head of the Canadian Civil Liberties Association, says that he supports the goal of protecting children but not the part of the bill that covers adults who play the part of children. He says:

It's hard to fathom why in the world the government would want to make it an offence to prohibit adult actors from portraying youngsters.

He continues:

Once again, you have a bill aimed at silence that could wind up imperilling legitimate materials, even works of art.

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I hope not, but I think we should call Alan Borovoy before this committee and find out what more he has to say about this and we should examine the clauses of the bill.

Keith Kelly, who is the distinguished director of the Canadian Conference of the Arts and the Writers Guild, is concerned about the onus of proof in the bill. I will quote what he says in *The Toronto Star* to Mr. David Vienneau, a reporter for *The Toronto Star*. Mr. Kelly says:

The defence of artistic merit exists but the burden of proof—and that is a costly burden—would rest with the person who is charged. We have some very real concerns about this.

Let us get him before the justice committee to tell us what the matter is.

I want to hear from my hon. friend from Saskatoon—Clark's Crossing who has had a private member's bill on this and has done a lot of work on it.

However let me recap as NDP justice critic. We are in favour of this bill. We are concerned about where it impinges on the artistic community and freedom of expression. Let us hear about that in the committee. We want to have an inclusive process. We want to tackle violent crime and at the same time we want to balance that with dealing with crime prevention. All too often the children, the victims of child pornography, end up being abusers themselves. We have to protect these children.

Mr. Chris Axworthy (Saskatoon—Clark's Crossing): Mr. Speaker, I am pleased to rise in support of the aims and objectives of this bill to criminalize child pornography and to make the possession of and all other activities dealing with child pornography a crime.

I would like to thank the member for Port Moody—Coquitlam and the member for Dartmouth for their support of my private member's bill. If that private member's bill had any small part to play in moving along the government then I am pleased that has happened.

It is late in the parliamentary session but I do not think that should prevent us from moving as quickly as possible on this bill. Like my colleagues who have already spoken I look forward to the passage of this bill. However I do have a couple of concerns that I would like to raise and have the government mull over. Hopefully in committee we can expeditiously deal with the issues, hear witnesses

on some of these complex points and make the bill an even better bill. I will just briefly relate each one.

One that has been raised already is the issue of the definition of child pornography. It is never easy to define these subjects in pieces of legislation. I do think that we should look very carefully at the restrictive definition which, as has already been indicated, really narrows child pornography to the depiction of explicit sexual activity.

• (1545)

I think the vast majority of Canadians would view other areas than explicit sexual activity as pornographic when children are involved. We should explore the opportunity to expand that definition. At the moment I think it is too narrow.

Another point which is worth exploring is the issue of making importation or attempted importation of child pornography a criminal offence. That is not the case under this bill. It seems to me that it is not the case under any other legislation either.

It is clearly the case that child pornography brought into Canada if apprehended by the customs officers would be confiscated, but it is not clear that anybody would be committing an offence by importing or attempting to import it. We should look at that.

Also the bill does not cover pornographic performances involving children. Perhaps we should look at that.

Last, what we have seen in Canada with regard to pornography but particularly with regard to child pornography because of the underground nature of it, is that new technology has enabled child pornography to be imported into Canada and then moved around the country very easily through the use of word processors and video recorders.

We need a process—and it was a part of my private member's bill—whereby from time to time we review the way in which child pornography is brought into Canada, produced in Canada and circulated within Canada because of the opportunities which are generated by new developments in technology. I suggest we do something like that.

While I support the government's intentions behind this bill and the thrust of it, and I know that my colleagues in the Liberal Party feel the same, there are a few things we should look at. I look forward to exploring those in the committee.

Government Orders

Mr. Speaker, I think you will find consent for the following motion. I move: • (1550)

That the motion for second reading of Bill C-128 be amended by having the bill referred to the Standing Committee on Justice and Solicitor General, rather than a legislative committee in the Departmental envelope.

Some hon. members: Agreed.

Motion agreed to, bill read the second time and referred to the Standing Committee on Justice and Solicitor General.

...

SEIZED PROPERTY MANAGEMENT ACT**MEASURE TO ENACT**

Hon. Gerry Weiner (for the Minister of Justice) moved that Bill C-123, an act respecting the management of certain property seized or restrained in connection with certain offences, the disposition of certain property on the forfeiture thereof and the sharing of the proceeds of disposition therefrom in certain circumstances be read the third time and passed.

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 and speak on third reading of this bill.

Right off the top, I want to say I am not prepared to apologize, nor is the Minister of Justice or anyone on this side of the House, for the justice bills or the number of them that are before the House.

The record of this Parliament will show that there has been continuous government action taken in making this country a better place and a safer place in which to live. When people say: "My heavens, you are doing something with child pornography; you have wire-tap legislation", I make no apologies for it at all. It is part of a continuing process.

To my knowledge, there has not been one month in the last four and a half years in which this Parliament has not been seized with justice legislation. Most of my colleagues on this side of the House have welcomed that and are very pleased to see it.

Hon. members will know that just the changes to the Young Offenders Act alone were a considerable improvement over the provisions that prevailed in the Young Offenders Act when we began this session of Parliament.

Of course we have to react and we have to react quickly. Some of the wire-tap provisions in the Criminal Code were struck down by the Supreme Court of Canada. At that point we did not simply throw up our hands and say: "Well, that is it. We will not revisit this as we do not want to upset somebody in the opposition because we have so much in the area of justice". We did not say that. We said: "All right. If there is a problem with one of the wire-tap sections, let us have a look at it", and we have changed it.

In the area of child pornography I hope members of the House will support and expedite that. We have already had a couple of attempts at it. It was very difficult, quite frankly, to get that kind of co-operation to move a bill on pornography through the House.

The bill before us now deals with the proceeds of crime. It works in conjunction with a whole host of initiatives and I mentioned the wire-tap legislation. I will explain why we are bringing them in.

The people working against making Canada a wonderful place to live, the people involved with crime in this country, are very sophisticated. There is quite a bit of money involved with these things. Therefore, should the law be constantly updated and reviewed to make sure we have the tools to effectively combat crime?

My answer and that of members on this side of the House is that yes, Canadians want us to do that. This has been confirmed in every questionnaire I have sent out in my riding. I questioned people on a whole host of issues, including crime prevention. I asked them what they thought about the distribution of the proceeds of crime, sharing it with law enforcement jurisdictions. Overwhelmingly people said that it was a good idea.

So when my colleague, the Minister of Justice, introduces a piece of legislation I can say that it certainly goes with my complete blessing and full support. That is what we have here. This bill which deals with the proceeds of crime is a good one.

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BUSINESS OF THE HOUSE

Mr. Bruce Halliday (Oxford): Mr. Speaker, I seek leave of the House to move the following motion to receive a late petition for a private bill for which I think there is unanimous consent. It reads:

That notwithstanding Standing Orders 131(5), 132 and 140 the petition for a private bill from the Canadian Medical Association presented earlier this day be deemed to have been filed within the required time limit and received by this House.

The Acting Speaker (Mr. DeBlois): Is there unanimous consent?

Some hon. members: Agreed.

Mr. Halliday: Mr. Speaker, I move:

That notwithstanding any Standing Order and the usual practices of the House, Bill S-20, an act to change the name of the Canadian Medical Association, be now called for second reading and that the House proceed to dispose of the said bill at all stages.

Motion agreed to.

...

CANADIAN MEDICAL ASSOCIATION

Mr. Bruce Halliday (Oxford) moved that Bill S-20, an act to change the name of the Canadian Medical Association, be read the second time and, by unanimous consent, be referred to Committee of the Whole.

• (1725)

Motion agreed to, bill read the second time, and by unanimous consent considered in committee, concurred in, read the third time and passed.

...

CRIMINAL CODE

MEASURE TO AMEND

The House proceeded to the consideration of Bill C-128, an act to amend the Criminal Code and the Customs Tariff (child pornography and corrupting morals), as reported (with amendments) from the Standing Committee on Justice and the Solicitor General.

Hon. Barbara McDougall (for the Minister of Justice) moved that the bill be concurred in.

Cortesi	Cortesi
Côté	Couture
Crawford	Croft (St. John's West)
Darling	de Cotret
Desjardins	Dionne
Dumas	Dorin
Duplessis	Edwards
Fox	Fellman
Ferguson	Ferland
Fle	Fonseca
Ford	Foster
Fraser	Gaffney
Gagliano	Gray (Bonnechère—Des-de-la-Madeleine)
Gray (Windsor West)	Grosjean
Guthrie	Halliday
Hart	Harvard
Hawkes	Hicks
Hockin	Holtzman
Hodges	Hornung
Hudson	Hughes
Jacques	James
Johnson	Jones
Jordan	Jourdain
Kempster	Landry
Langlois	Larocque
Layton	Lee
Lewis	Lepelletier
MacAulay	MacDonald (Dartmouth)
MacKay	MacLellan
Mahood	Malone
Martin	Martin (Lindsay)
Masse	Mayer
Mazankowski	McCreath
McDermid	McDougall (St. Paul's)
McGowen	McLean
Mifflin	Milliken
Mitnick	Monahan
Moore	Nicholson
O'Brien	O'Kearney
Peterson	Pickard
Poirer	Proulx
Redway	Rod
Renaud	Ridout
Ridout	Robitaille
Rumpley	Roy—Arce
Schneider	Shelton
Simmons	Sobush
Soule	Spiller
Stewartson	Therif
Tetras	Therif
Thompson	Therif
Therif (Ottawa—East)	Therif (Ottawa—West)
Valour	Therif (Ottawa—West)
Vauzelle	Vauzelle
Vine	Vauzelle
Weiner	Weyman
White	Wijaya
Wilson (St. Catharines—Maple Creek—Aurora)	Worby
Wong	
Young (Acadia—Bathurst)—146	

NAYS

Members

Angus	Benjamin
Blais	Belland
Bourque	Blais
Gray (Barnes River)	Hepp
Hunter	Lalonde (Longueuil)
McCurdy	McLaughlin
Nowlan	Nyren
Pamond	Sampson
Stupak—17	

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Bill read the third time and passed.

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Motion agreed to.

Mrs. McDougall (for the Minister of Justice) moved that the bill be read the third time and passed.

Mr. John Reimer (Kitchener): Mr. Speaker, I am delighted to begin the debate at third reading on Bill C-128 in support of the action that is being taken to amend the Criminal Code with respect to child pornography.

I should also add I had a private member's bill that would have been debated at this time. Because the subject matter of my private member's bill was also pornography we decided to merge the two and go on with Bill C-128 since one-third of the topic of my private member's bill on pornography deals with the question of child pornography and that is being served in this Bill C-128. I am going to address some of the aspects of what my bill would have done and also the bill that is before us, Bill C-128.

• (1730)

In the case of my bill I was pleased that it was designated a votable bill. It met the criteria and would have proceeded had the parliamentary calendar had enough time for a second hour of debate following today and finally to a vote. If it was successful it would have proceeded to committee and so on. Unfortunately the parliamentary calendar is coming to a close now and that will not take place. I am going to simply address what was in my bill and also this bill.

I am glad that one aspect of my objective in bringing forward my private member's bill dealing with pornography is being addressed in Bill C-128. I brought forward my bill last December and I had two objectives.

My first objective was to see if I could get the government to agree to act on the issue of pornography and simply take over the subject matter of my bill as its own, acknowledge where it came from and proceed on that basis.

The second objective, failing the first, would be that if the government did not want to proceed with my bill that it would at least introduce a bill of its own on the subject of pornography. That has partly been answered through Bill C-128.

I want to also acknowledge that many caucus members supported my bill. My bill was seconded by 14 caucus

members as recorded in *Hansard*. I would like to acknowledge that the member for Niagara Falls was always a strong supporter of action that this government had to take with respect to the question of pornography. He and I were first elected in 1984. When we received the Fraser report in 1985, we were two members among many who urged the minister at that time to act on the question of pornography. It resulted in two bills which I will mention in a moment. Finally it is coming to fruition in this Bill C-128. The member for Niagara Falls as Parliamentary Secretary to the Minister of Justice shepherded that bill through committee to this stage and hopefully adoption by the House later today.

I would also like to recognize the work of the member for Mississauga West who is the chairman of the Standing Committee on Justice and Legal Affairs who worked hard at ensuring that this bill and the subject matter of this bill dealing with child pornography would successfully come through to this stage today at third reading.

I would also like to say that the family caucus of the Conservative Party strongly urged the Minister of Justice to take over my bill and to come forward with a bill dealing with pornography. At least one measure of that is being acted on today. I have received hundreds of letters and phone calls and I continue to receive them in support of the bill I brought forward dealing with the subject of pornography. I lobbied the minister to take over my bill and fortunately at least one part is now being acted on.

The minister's bill with regard to the topic of child pornography is essentially the same as mine. With the amendments that were added at committee stage to the minister's bill, it really is identical to the bill I introduced on the subject matter of child pornography. I am really pleased that we have made tremendous progress and that today we are going to pass that before this House adjourns and we move toward the election which we expect in the fall.

My bill had three parts. The first part was to introduce legislation to criminalize the use of children in the production of pornography. That is what Bill C-128 addresses. In the second part of my bill, for the first time because child pornography is not in the Criminal Code now, we are doing something that is breaking ground in that area. My bill, again for the first time, would

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introduce tough new measures to protect women, to criminalize violence in pornography against women.

• (1735)

Some people have suggested to me that the action we are taking in Bill C-128 with regard to children in pornography attacks the vilest and cruelest form of pornography as it victimizes children. There is a large measure of truth to that and I support that.

However I think we would all find that the action against women in pornography or the victimization of women and the way in which they are treated as things and objects and not as human beings is also repugnant and repulsive. It also leads to the same tragic results sometimes that child pornography does. That is the victimization and the brutal murdering of women which is what happens to children which Bill C-128 addresses. I find both repulsive.

That is why in my bill I had as one part the addition to the Criminal Code of actions against child pornography and as a second part actions against violence against women in pornography and in the sexual context. I think both actions deserve a very strong criminal sanction against them because both are equally repugnant to all in society who want our Criminal Code to reflect our values as it should.

I also had in my bill as a third item, and again for the first time, the introduction into the Criminal Code of a precise definition of pornography. That would have assisted the police, the courts and all Canadians to identify and control what common sense tells us is pornography.

That would have meant that rather than relying on the present term "obscene" in the Criminal Code which lacks any clear definition and also rather than relying on the phrase "undue exploitation of sex" we would have a clear guideline in the Criminal Code as to what was meant by pornography.

My bill also added any matter visual or otherwise that incites, promotes, encourages or advocates the use of children. That means that anyone who is or appears to be under 18, whether in a real or simulated situation in a sexual context or portrays any violence against a child or a male or a female or portrays any degrading sexual acts as defined in my bill against a child or a male or a female person would then be liable to criminal sanctions as

outlined in the bill. I am glad the latter part with respect to children has been added as an amendment to the government bill and is a part of the report we have received here today at third reading.

Let me just mention a little history here with regard to government actions on the questions of pornography. Parliament in the early 1980s established two special committees. One committee was chaired by Dr. Robin Badgley and it made recommendations dealing with the problems of child sexual abuse and published its report in August 1984.

A second committee, also formed in the early 1980s, was chaired by Paul Fraser. It investigated pornography and child prostitution. That report was made public in April 1985. Therefore as the new government that had been elected in the fall of 1984 took office these two reports came very early in its mandate and the government then studied the results of these two reports.

Briefs were submitted to these committees clearly demonstrating that most Canadians wanted government control of violent pornography to protect both children and women. In response, the Fraser committee made 58 recommendations dealing with pornography, 9 of them concerning child pornography. The committee also recommended a complete revision and rewriting of the obscenity laws in the Criminal Code.

We have to remember that the word "pornography" does not appear in any current law in our Criminal Code today dealing with offensive materials and performances.

Many people attending the Fraser committee hearings argued that the current terminology of "obscene" should be replaced with a clear definition because of its lack of precision. The government responded and took account of the multiplicity of views expressed in those two reports and in the consultative process which it developed around the subject matter of pornography. The government then acted promptly and introduced Bill C-114, which unfortunately died on the Order Paper in 1986. Subsequently it introduced Bill C-54, which also died on the Order Paper in 1987.

• (1740)

The protection of vulnerable groups from harm, such as women and children, is an important consideration in determining the appropriate level of any intervention of the Criminal Code. Strong measures are needed to ensure that those people who may be harmed by the

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effects of pornography are protected by provisions in the Criminal Code.

In the first two bills that I mentioned and also in the bill that I brought forward, I sought legal advice to make sure that the bill I presented for private members' debate, and which part of it has now been taken over, would strike an appropriate balance between the necessity to protect people from harm and also the right to freedom of expression which is guaranteed in the Canadian Charter of Rights and Freedoms.

The bill I presented and also this bill, Bill C-128, recognizes the need for educational, scientific and medical defences with limitations to ensure the protection of freedom of expression. We have done that to that degree, and we have tried to meet the legitimate objective of protecting children and women from violence in pornography, and in Bill C-128 protect children from violence and abuse in pornography and the need for freedom of expression.

Justice Sopinka in the Butler decision of 1992 was very helpful in his decision explaining how we would deal with the question of pornography in the absence of anything further from the House to clarify what the Criminal Code said on pornography. He explained what would constitute either an obscene matter which the Criminal Code speaks to or the undue exploitation of sex and what would be meant by that.

He did it in three categories and I quote: "The first would be the portrayal of sex coupled with violence which will almost always constitute the undue exploitation of sex". Then Justice Sopinka went on to say: "Explicit sex which is degrading or dehumanizing may be undue if the risk of harm is substantial". That would be the second test. Then Justice Sopinka spoke of the third test and said: "Finally, explicit sex that is not violent and neither degrading nor dehumanizing is generally tolerated in our society and will not qualify as undue exploitation of sex unless it employs children in its production".

He was saying to us that if it involves children then it is always obscene and always an undue exploitation of sex. That is what Bill C-128 recognizes. That is why I am pleased we are finally taking action at least on that aspect of the question of pornography.

There are some who propagate the myth that pornography is a harmless adult pleasure. I want to say a few

things about that. I found a quote in *The Washington Post*. Admittedly it is an American quote but I thought it was a very good one. The writer was Nicholas Von Hoffman, a columnist with *The Washington Post*. He said the following: "Why is it liberals believe role models in third grade readers are of decisive influence on behaviour when it concerns racism or male chauvinist piggery, yet laugh at the assertion that pornography may also teach rape? Every text book in every public school system in the nation has been overhauled in the last 20 years"—and that is also true in Canada—"because it was thought that the blond, blue-eyed suburban children once depicted therein taught little people a socially dangerous ethnocentrism".

He continues: "If textbooks, those vapid and insipid instruments of such slight influence can have such a sweeping effect, what are we to surmise about the effects on the impressionably young of an X or R-rated movie in wide screen technicolour with Dolby sound and every device of cinematic realism?"

• (1745)

Common sense tells us that if textbooks that used to have stories about John and Mary, who were the blond, blue-eyed people who used to be in the text when some of us went to school, which dates us somewhat, now have to be rewritten to include people of various ethnic groups and different names, if that is so vital, then surely all these movies, videos, magazines and everything that are available to our children today do equal if not more harm to people. Common sense would tell us that. Those who want to say that pornography is a harmless pleasure simply do not make sense.

I talked to Mr. Bob Matthews of Project P, which stands for pornography, from the Ontario Provincial Police. He heads that group. He was very supportive of my bill and he pled with me to make sure that this government at least acts on child pornography, if nothing else. He also liked my bill but he said to at least make sure of that. Fortunately today we are coming to the stage of passing that.

There are statistics from Canadian and American studies. A study was done by Dr. W. L. Marshall of Queen's University in Kingston, Ontario. He studied the inmates of the Kingston penitentiary and discovered that more than one-third of the 89 child molesters and rapists

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who are in the Kingston penitentiary had committed the offence after being exposed to pornography.

In the evidence he presented to the family caucus of the Conservative Party he said that of 51 child molesters, 34 consumed pornography on an ongoing basis before they committed their crimes. He also said that of 51 child molesters, 19 used pornography as a stimulus and a catalyst to acting out their crimes. The evidence is there and it is very clear.

Another telling piece of evidence is an interview with a convicted child and woman molester. He had murdered 18 children and 10 women, all in a sexual context. His name was Ted Bundy. He was executed for those crimes in the state of Florida. There was an interview between him and Dr. James Dobson.

Dr. Dobson was a member of the attorney general's commission on pornography in 1965 during the Reagan administration in the United States. That commission was unanimous on the direct relationship between pornography and violence toward women and children.

In Ted Bundy's interview with Dr. Dobson he discussed his background. Ted Bundy told Dr. Dobson that he grew up, and he used these words, in a wonderful home with dedicated and loving parents, five brothers and sisters. He attended church every Sunday. He then said that as a 12-year old or 13-year old he had his first exposure to pornography. The pornography he looked at was in what I would characterize as adult magazines. These were soft core pornography magazines that his grandfather had hidden in the greenhouse in the backyard. Ted Bundy found these and they were his first exposure to pornography.

As a result of going through these magazines over and over, he then wanted magazines with violence in a sexual context in them. He then sought out more and more magazines depicting sexual violence. Then he would fantasize about what he had seen in the visual form and what he was reading.

He then said that at age 18:

It moulded and shaped my behaviour—fantasized and crystallized my thoughts—all fueled by pornography—for two years I read more and more and ever increasingly violent pornography—it became an addiction—then the barriers that I knew were wrong, (that I had

learned as a child) couldn't be controlled any more—I began to act out my fantasies.

He then killed 18 children and 10 women.

• (1750)

He then admitted:

Pornography was central to the action of my murders.

He also said that pornography can reach out and snatch any child out of any home in America or North America today. He explained:

Without a doubt every murderer that I talked with in Florida State Prison—

—and there were 81 serial murderers in that prison when he was there—

—was consumed by pornography.

Those are some of the facts that we know and that we study. It is not a harmless adult pleasure. It is one that affects people and unfortunately it leads some to act out the very things they see and read.

In the Florida State Prison 36 of the serial murderers listed hard core violent pornography as the most prominent reason for committing the murder they committed. They said the door that opened all of them to hard core violent pornography was soft or softer pornography.

I am delighted that today we are at least moving on one-third of what my bill was trying to do, which is to act on child pornography. I wish we were also acting on violent pornography against women because I find it equally repugnant and just as vile and degrading as actions against children. I wish we were doing that too.

I also wish we were providing a clear definition in our Criminal Code of what is dehumanizing and degrading pornography, which my bill sought to do. That is going to have to wait for another Parliament. I hope the good people of Kitchener will re-elect me. If they do then I will commit myself to adding those two additional parts later. At least we are acting on the first one today.

In conclusion let me simply say the following. In one of the studies about pornography and its influence that I looked at I found a remarkable statement by several who have studied this in the United States and Canada. They were all in agreement.

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They documented four steps in what happens to people who are consumed by pornography. The first step is that it is addictive to its habitual user. The user wants more and more. The second step is one of escalation in consumption and the need for more explicit and more brutal levels of stimulation. That in turn leads to a third step, which is a desensitization process that effectively makes commonplace what was once shocking, repulsive and abhorrent. Unfortunately sometimes that progression leads to the fourth step which is the acting out of the pornographic depictions, often with violent and brutal results that lead to the death of children and women.

Let me conclude by simply saying that it is time that all members of this House and all Canadians commit themselves to attack the personal and social evils of pornography. As a personal evil pornography corrupts the morals and destroys healthy attitudes toward life for the user. As a social evil it brings immense harm, even death, to innocent women and children and their families.

Bill C-128 at least starts the first step in that process. As I said before, if re-elected I will commit myself to working toward adding the other two. I commend Bill C-128 to the House for speedy passage today so that we can at least take that first important step.

Mr. Russell MacLellan (Cape Breton—The Sydneys): Mr. Speaker, I would like to follow up on what the hon. member for Kitchener said. I want to congratulate him on bringing forward his private members' bill on pornography. There are a lot of thoughtful provisions in it. I want to thank him for his kindness in blending together his thoughts with respect to his own private members' bill and for speaking so forcefully and so well on behalf of Bill C-128 at third reading. I listened very closely to what he said.

• (1755)

I think all members of the House are in support of Bill C-128. It would not be an understatement to say that this is an extremely important bill. I think if there is one thing I would modify in what the hon. member for Kitchener has said it is that the child pornography is not more serious than pornography involving adults of any gender. When we are talking about children we are talking about the most vulnerable people in our society.

We are also talking about members of our society who are helpless, members of our society who have had inflicted upon them the horrors of child pornography. They never really forget the experience and have to live with this degrading and horrible experience for the rest of their lives. In many cases they have their lives twisted and deformed mentally as a result of their experiences so that they are never able to fulfil their potential and lead the full lives that we would want them to have. As well, in many cases those who were sexually abused become abusers when they are adults.

Just to deal for a minute with the whole question of pornography as the hon. member for Kitchener has done, I do not think this House or anybody in this country truly realizes how the malignancy of pornography has spread through our social fibre.

In the early 1970s pornography was a \$5 million industry in North America. Today it is a \$10 billion industry. Of the 10 most profitable magazines on the market six are what we would call men's entertainment magazines. *Playboy* and *Penthouse* outsell *Time* and *Maclean's* in this country. Thirty per cent of all news-stand sales now consist of pornographic magazines.

We cannot have that much pornography in this country without having child abuse. The fact that is often overlooked by those who fear that government is going too far in censoring certain materials is that this material has a profound effect on the lives and futures of children in our country. Each depiction of a child in a sexual act or an unnatural position of nudity means that child was abused to facilitate the photograph or the video in question. The very fact that has happened is evidence of child abuse.

Child pornography is one of the most dangerous of all types of pornography for two reasons. First, paedophiles often use it as a tool to seduce other children and lower their inhibitions. They say to these children that all kids do this. That is okay so they should not be afraid because it is perfectly natural.

If a paedophile is operating in a certain neighbourhood there may be pressure on a child when he or she recognizes one of his or her peers in a picture. These are children. We are not talking about the mature minds of adults, and in many cases we wonder how mature the minds of adults are. The fact of the matter is that children are vulnerable. They are in a maturing state and we cannot expect them to understand that when they see these photographs that all children are not doing this. If

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these children do not have guidance from other sources, adults on whom they can depend and rely to speak to about this, they are going to be influenced by paedophiles who pursue this action.

(1800)

The second reason that it is so deadly serious to our society is the child is damaged for life in the production of a pornographic video or a photo. It is a permanent record of a child involved in either sexual poses or sexual acts. The child has the scars for life. Even when they are adults they know these images may be used to seduce other children. The fact that they have been molested and used in this way is something they will never be able to get out of their minds.

This bill bans the possession of child pornography and that is very important. Presently it is not illegal to possess this material. It is only illegal to sell or distribute it. It means that someone who produces child pornography for his own use escapes criminal liability, and I am glad to see that this is going to change.

The importation of child pornography will also be prohibited by this bill. This means the police can track the delivery of child pornography and arrest and charge the recipient. This is important because a search warrant can be issued and police may find the recipient in possession of additional pornographic material. It may also lead to information on the identity of other paedophiles as very often these people trade material and information.

The present situation under the Customs Tariff Act is that if pornography is imported, then that material is destroyed. The person who imported it is not charged. It is just destroyed and that is the end of the matter.

Now a paedophile who is attempting to build up a collection of pornographic material will simply make other attempts to obtain the material they are seeking. What are the chances of coming across this material again? It is very unlikely. There are just over 300 and some cases a year where the customs officers find pornographic material in the mail. They cannot open every envelope. It is found through spot searches. If the

person orders more, the likelihood is that the material is going to get to the person who orders it.

We do not know what other situations exist at the point where this material is to be sent. By following it through to the recipient, we can find out a good deal and in some cases actually find children who are being molested and used for child pornographic purposes.

Perhaps we will even find, as I have said, the name and address of the person or company that is actually sending this material. It could be the beginning of an investigation into possession of other child pornography that may have been kept at the residence or may even be a secret location.

It is very important we realize that what we are doing here is not just saying we want to do something about child pornography. As a Parliament we have to be in a position to pass a bill that is effective. We cannot just continually talk about it.

(1805)

In 1984 the Badgley commission stated that we had to do something about child pornography, that we had to make possession of child pornography against the law. In 1985, a year later, the Fraser Institute stated the same thing: we had to do something about child pornography and we had to make sure that possession of child pornography was against the law.

Rix Rogers, a well-known authority on the abuse of children and a special consultant to the Minister of National Health and Welfare, in 1990 came out with his report that said the same thing.

We have been talking about this for 10 years. How many children have been abused, have had their futures twisted and their lives practically ruined by the experiences that have resulted from child pornography? We can only imagine how many there have been.

If we want to get rid of child pornography, if we want to do something about sexual abuse of children, we have to do something about the children being abused now. As I have said, children who are abused more likely than not become abusers themselves. It is a never-ending cycle that we have to stop. The only way to stop it is with action through the law; to state what it is we want to do,

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to make a commitment that in this country we are not going to tolerate child pornography.

We in the Liberal Party are very supportive of this legislation. I want to thank my colleague from Scarborough for his help. He will be the next speaker for our party. He made a tremendous contribution, as members of this House know.

We felt that this bill should have come long before now. It was too long in coming. But it is here now and we want to make sure it is successful. We want to make sure it passes. It has moved quickly, but because it has moved quickly does not mean that it has been frivolously dealt with. It has been considered very seriously. We have had witnesses, we have listened and we have taken into consideration the concerns that people might bring forward and have brought forward.

We have also said that we are not in any sense interfering with freedom of speech. Certainly not. We do not feel this bill in any way interferes with freedom of speech. However we have to take a stand. We have to say something. We have to make a commitment and we have to do something that is going to be effective.

In a recent government poll it was determined that 94 per cent of Canadians wanted to do something to prohibit child pornography. This is not saying that child pornography is being produced everywhere in Canada. It is not being produced in Canada very much at all, but it is being imported and it is being imported very easily.

While we have had the reports, we have not had the action. I want to mention also a very significant case, which is the Butler case that was started through the Court Challenges Program. In this case the court unanimously upheld the constitutionality of the obscenity provisions of the Criminal Code. Although the prohibition against pornography contravened the freedom of expression guaranteed in the Charter of Rights and Freedoms, it could be justified under section 1 of the charter as a reasonable limit prescribed by law. This is very important because we had then our highest court in the land coming down on the side of our obscenity provisions. That was the first very important pronouncement by this case.

• (1810)

Mr. Justice Sopinka, writing on behalf of the court, said that while a direct link between obscenity and harm to society may be difficult if not impossible to establish,

there was nevertheless sufficient evidence that depictions of degrading and dehumanizing sex do harm society and in particular adversely affect attitudes toward women. That was the second very important pronouncement because we finally had a case in this country that linked the dehumanizing and degrading treatment of women to obscenity and ultimately pornography. There is a second very important link.

Under the court's analysis they depicted sex with violence or degrading or dehumanizing sex as something that will almost always constitute an undue exploitation of sex contrary to the obscenity provisions of the code. This is the relationship between the actions of dehumanizing and degrading sex with obscenity and the contravention of the code. Explicit sex that is neither violent or dehumanizing will be tolerated the court said although two of the judges felt that not only the content but also the representation of the depiction would be objectionable.

However I want to underline that this is really relevant. In this context Mr. Justice Sopinka said: "Finally, explicit sex that is not violent and neither degrading nor dehumanizing is generally tolerated in our society and will not qualify as an undue exploitation of sex unless it employs children in its production".

In this act we talk about explicit sexual activity in relation to child pornography and the dehumanizing or degrading treatment of children and the words "explicit sex". There is this context. We have the invitation from the Supreme Court of Canada to do something about child pornography.

I do not want to go on too long because there are a lot of members of this House who wish to speak on this. I want to say that there has been great co-operation among all parties and I want to thank the government for this. This bill was introduced late and I had a very grave concern that we would not be reaching this point. We are just getting it in under the wire.

Our party has said from the very beginning that we did not want the House adjourned until this bill is passed. Now it seems that this may be the last piece of legislation that is passed by this Parliament. This is very important for the people of Canada. It is very important for our police forces who work diligently on this question. It is very important for the child interest groups in this country who are working day after day and are dealing with the broken psyches of children who have had to

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endure this kind of treatment largely because the laws were not sufficient in our country.

I would like to close by saying that this bill is good and it must be passed by this House. I and members of my party support it completely.

• (1815)

Mr. Bill Blaikie (Winnipeg Transcona): Mr. Speaker, I would like to add on behalf of my New Democratic colleagues our support for the passage of this bill. It looks to me as if we will be able to pass it in all its stages today. There has been a previous and prior agreement to do so.

I would just like to make a few brief remarks by way of commenting on the origin of this legislation and some of the issues that I think attend it.

First I would like to pay tribute to the member for Saskatoon—Clark's Crossing. It seems that in every caucus there has been someone working on an individual basis on this particular issue. My colleague in the Liberal Party and my colleague in the Conservative Party have cited the people in their particular caucuses who have given a lot of attention to this effort.

Certainly the hon. member for Saskatoon—Clark's Crossing through the introduction of his private member's bill, Bill C-396, was also one who contributed very much to the political momentum that I think brought the House to the point where I think it is today, on the verge of passing this legislation dealing with the issue of child pornography.

I might say that in spite of the satisfaction that we take in the fact that this legislation is now to be passed and something is now to be done about child pornography, we would be remiss if we did not remark on the fact that we are in the closing days of a Parliament and in the ninth year of the political reign of the Conservative Party opposite.

Maybe sometime for the record—I say this in all honesty—we can have an explanation of why it has taken so long. Some of the members opposite made a political career out of campaigning against pornography when they were in opposition. Now nine years later and in the

dying days of their government and perhaps their political reign *per se* we get this bill.

It is really a shame that we have had to deal with it as quickly as we have had to. It is the kind of thing that probably did deserve more attention but we were left in the position of saying better late than never and better this bill than some imaginary bill that might come out of a longer process. We have accepted the reality that has been set before us and we are glad to be able to work in co-operation with others to bring forward a bill that deals with child pornography.

I do think that at some point the country is owed an explanation as to why it took so horribly long for this to happen. I know some of the reasons. I know that at one point there was a bill which tried to deal with pornography in general and child pornography all wrapped up in one and that became too difficult an issue for the government and for that matter for a lot of other people.

Instead of separating them as it was requested to do at the time it decided, if my memory serves me correctly, to scrap the whole project. It took this long again to come around to dealing with child pornography only, which is exactly what it was requested to do on a previous occasion when it could not find a way to deal with the whole issue.

I think the member who spoke on behalf of the government made a point that is well taken. There is an inconsistency when it comes to certain issues but I would submit that the inconsistency lies on both sides of the House or on both sides of the political spectrum.

Sometimes people who are conservatives are loath to see the importance of role models in literature, education and for that matter religious symbolism while they very clearly see the common sense notion that pornography affects people's views and what they see and experience affects their judgment about the world.

The member made the point that liberals often are very concerned about role models in textbooks but are prepared to argue—some of them and not all of them—that pornography does not do anybody any damage. There is an intellectual inconsistency here but I will just say in fairness that I think one will find it on both sides of the political spectrum.

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• (1820)

There was a time not so long ago when I was seeking the nomination in 1977-78 that to be against pornography was seen to be an almost exclusively conservative pursuit. I think people came to see, particularly as those in the women's movement began to see that pornography was an issue for them, that there came to be a broader coalition of people who were concerned about pornography and particularly its effect on women and of course on children as this legislation seeks to deal with.

However we still have another stage to go as far as I am concerned and I hope I will have the time to get to that. I just wanted to say that I am glad to see that that coalition developed. I think we see it here today in the variety of people who are speaking to this particular bill and in the variety of parties that are all speaking in support of this particular bill.

Obviously child pornography is something that has to be dealt with. I cannot think of anything more despicable really than the exploitation of children for violent or sexual purposes both in the sense of the children who are used to create these photos and so on and in the sense of the children who may subsequently be victimized in a truly physical sense by people who are moved to do that by consuming that particular child pornography. The member who spoke before me spoke very well about all the connections that have been established through research and experience into that particular phenomenon.

I am not worried, but maybe somebody is, about curtailing free speech. I do not think that freedom of expression is an absolute and I never have. There is the old thing that we discuss in first year philosophy which is whether people have the freedom to yell fire in a crowded theatre. They do not have the freedom to yell fire in a crowded theatre because their freedom to speak whatever they want is limited by a sense of responsibility for the well-being of others. In that case it is in the theatre.

The freedom of expression of child pornographers, if there is such a thing, is limited and is now to be limited by law and limited severely I hope by the responsibility that we all have to the well-being of children, both those who are directly or indirectly exploited by pornography, and the well-being of society in general.

The notwithstanding clause and the preamble of the charter of rights both indicate that the rights which are enshrined in the charter are not absolute. I think that if anybody wants to make an absolute defence of freedom of speech in this case as a way of criticizing this bill or other bills that might try to deal with pornography are barking up the wrong tree.

I want to go back to what I said earlier and I am sorry the member who spoke for the government is not here. I think we have another dimension to go. First of all we have not dealt with adult pornography and that is a remaining task.

However, let us say that we were able to come to an appropriate distinction between pornography and erotica. This is what held up a previous package because people could not come to that kind of distinction. We still will not have dealt with the all-pervasive soft pornography as it were that is blasted into our TV and family rooms day after day, hour after hour, around the clock and is now to come to us through the death star which is the satellite that will bombard us with literally hundreds of channels.

• (1825)

It is very difficult these days for parents to protect their children if there is a TV in the house and a channel changer. It is difficult to regulate what they are being exposed to unless a parent is there all the time.

I am not only talking about programming, I am also talking about advertising in particular. What is offensive about pornography in the abstract or conceptual sense is its dehumanization of the human body and human relationships, particularly as they pertain to women. Women are made into sexual objects, objects of violence or whatever the case may be.

I think our children pick up the message about women as sexual objects very soon without ever having to see any so-called pornography. They just have to watch advertisement after advertisement where women and sex are used in subliminal and explicit ways to sell everything from toothpaste to mouthwash to cars and jeans. Situation comedies and other programs are full of sexual innuendo and double *entendre*. There is variety of other ways in which young people are exposed to a far too heavy diet of having to think about sex and themselves in

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a way that ought not to be forced on them at such an early age.

Perhaps this reveals a small c conservative in this socialist but I think this is a growing concern. I would like my friends over there who are great defenders of the market, deregulation and letting the world be run by consumer, corporate and market interests to explain to me how in the final analysis we will deal with this kind of pornography. The advertisers and corporate image makers are given a free hand now. They will be given an even freer hand through the proliferation of telecommunications technology and the elevation of the market ethic to a mega ethic through the free trade agreement and things like that. They elevate the marketplace conceptively to a place where it has never been before in Canadian society because we have always held the market ethic in tension with other ethics and with other ways of seeing the world.

There is a contradiction between small l liberals who worry about role models in text books and yet defend pornography. I do not think it is a contradiction I have because I do not think I am a small liberal. I am not sure who the member was quoting when he was reading from *The Washington Post*. It sounded like Robert Hughes who wrote the book, *Culture of Complaint: The Fraying of America* which incidentally is a great tirade against political correctness, if you are interested, on both the left and the right.

This is the deeper contradiction in the political mindset of my friends on the small c conservative side. How are they going to deal with the effect of the marketplace and the implicit use of sex and sexual images to sell products? We in our society hold up those who are able to sell things as the people we most admire. The people who are able to sell millions of things will rise to the top in our society. So often this is done through the exploitation of the very thing we want to contain in another form when we find it and that is pornography.

• (1830)

When we find it in the form of promotion of a product, we say: "Well, isn't that clever. They developed that ad and got a bigger market share. They did so well. The

price of their shares went up or the value of their dividends went up or whatever the case may be".

I leave that comment with you. We are anxious to see the bill passed and we hope it will have the effect so many members here genuinely hope for and that is to see child pornography drastically reduced if not eliminated in Canada.

Mr. Rob Nicholson (Parliamentary Secretary to Minister of Justice and Attorney General of Canada and Minister of State (Agriculture)): Mr. Speaker, I remember nine years ago this month I was running for election for the first time and speaking to a meeting of Conservatives in the town of Niagara-on-the-Lake, which is part of my riding. I told them one of the things I hoped to see and be a part of in my term of office in Ottawa was new and tougher laws in the area of pornography, if I was fortunate enough to be elected. I am delighted today that after nine years, the Canadian House of Commons is set to pass new, tough laws in the area of child pornography.

I am tempted not to rise to the bait of some of the partisan comments from my friend in the New Democratic Party. He asked a legitimate question I suppose when he said: "Why did it take nine years to get a bill through the House of Commons?" I can say to him that it certainly was not because of lack of trying on the part of the member for Kitchener, my political party or me.

In 1985 we made our first attempt to introduce legislation. It was comprehensive legislation dealing with all aspects of pornography. I liked the bill and was enthusiastic about it. I was delighted when we tabled it in the House of Commons.

It was tabled in an honest response to reports that had been mentioned in this House and to individuals and groups that petitioned us to bring in a pornography bill. That bill was roundly criticized by many individuals and groups. Some very prominent Canadians did everything possible with reference to that first pornography bill. It was one of the first pieces of legislation in the justice area in which I was involved. I somewhat naively thought that maybe we did not get it quite right. Perhaps if we listened to the criticism of the first pornography bill, we would get it right. We would change it and tighten up the definitions.

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I remembered looking at it and listening to all the criticism that part of the definition was open-ended. I thought it would be better in law to close the definition and make what we were talking about clearer.

I say I was somewhat naive because the next Minister of Justice, the present Governor General of Canada, introduced a second pornography bill and I was somewhat surprised that the same cast who criticized the first pornography bill lined up against the second bill. At this time I was under much fewer illusions about this whole subject and how difficult it was. I decided to see if there was anything I could do as a member of the standing committee of justice to try to meet the library boards, respond to the criticism and write letters to the editor to defend the second attempt by this government. I can say that there was quite a bit of criticism. As the member from the Liberal Party who spoke first on this pointed out, this is a billion dollar business. There are people who are prepared to spend millions of dollars to make sure that there is no new pornography bill in Canada.

• (1835)

I remember shortly after being elected a decision of the Supreme Court of Canada striking down the importation of pornography sections in the Customs Act. I will tell you what fascinated me about that. Who would go to all the trouble and expense to go to the Supreme Court of Canada to challenge a law that was blocking hard core pornography getting into this country? Of course it is the people who benefit and make huge profits from pornography. They are the ones who are prepared to challenge through every court in this land to try and strike down any attempt by parliamentarians.

There is a very well organized and financed lobby in this country that will challenge any definition of pornography. On one count they have us because it is very difficult. Very often you will hear people say: "I am against pornography but you did not get the right definition". As a member of the standing committee of justice and the last four years as Parliamentary Secretary to the Minister of Justice, I have often said: "if you agree we have a problem tell us what you think the definition should be." Of course you do not really get it then. In fact I remember one witness said to me: "No, no, my job is to see what you have come up with and then I will let

you know whether that meets our standards and our tests".

The second pornography bill did not make it. I realize that the individuals and some of the groups who legitimately wanted something done in the area of pornography were very quiet, a little too quiet for my tastes. When this bill came about and people came to my office to suggest this, I indicated to them that I believed we could and should attempt a third bill in the area of pornography. I asked them not to demand perfection because none of us are capable of perfection particularly when it comes to something as difficult as this. I asked them to have a look at what we do and perhaps on this one give us the benefit of the doubt. I am of the opinion that if we cannot get a bill in the area of child pornography I am not sure we can get any bill in this particular area.

I appreciate those individuals who did speak up on this occasion. I appreciate those who have some understanding of the parliamentary process who when they came before the committee or wrote to us said: "Of course we want more". There is no advocacy group that is ever going to look at any piece of legislation and indicate that it is perfect. Nobody is going to say that because they are in the business of saying that it is well done but that we should do more. I appreciate the fact that they came out and said that this may not be perfect but for Heaven's sake pass it in the dying days of the 34th Parliament. As it has been pointed out, for the first time the possession of child pornography is a crime in this country, as it should be.

I would like to thank the Minister of Justice for being bold to take this step. He is the third activist Minister of Justice in this Parliament, one of whom will be sworn in another week as Prime Minister of Canada. It has been my honour to serve under all three of them as their parliamentary secretary. I appreciate the fact they have brought forward so many pieces of legislation and that this Minister of Justice tabled this child pornography bill because it is a good bill. I appreciate as well the work of the officials of the Department of Justice. The more justice legislation that I have been involved with, the more I have grown to appreciate the work that they do in drafting this legislation and helping to get this legislation before Parliament. I also thank the members of the committee.

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• (1840)

I am not telling any secrets that anybody else in this Parliament does not already know. If this bill was filibustered it could not get through this Parliament and would die on the Order Paper.

I say to the member from the NDP that if he wants to know why sometimes these bills do not get through we are all part of a process that can delay it. That is why I think it is a very healthy experience and a very productive part of the process in which we are involved here and that committees, particularly committees in the justice area, have worked so well.

For my part, as an assistant to the Minister of Justice I have never tried to have a closed mind when it comes to the whole question of amendments. I am pleased with this bill. Last week we had the stalking bill and other pieces of legislation. It is my firm belief that if there are good ideas that come from members on all sides of the House, they should be looked at very carefully and if they can be implemented and do improve the legislation we should do it.

I pay tribute to my colleague, the member for Red Deer. If participating in legislative committees in the area of justice could get you a law degree he would have had his law degree by now. He has been very helpful. I extend that comment to the other members of this legislative committee in particular whose comments are now part of this bill.

We made a couple of very important changes today. One of them is in response to comments made by members of the opposition, comments made by members of the government and comments made by some of the witnesses.

In particular I commend the work of Citizens Against Child Exploitation. Their executive director, Monica Rainey I think made a very good point to the committee. She said that in the definition of child pornography as it existed in this bill what would be caught is pornography that showed children under the age of 18 engaged in explicit sexual activity. She and others pointed out there are a lot of things that you could involve children in that does not express sexual activity but is disgusting, reprehensible and exploitive nonetheless.

She and others pointed out, for instance, that pictures of children with no clothes on in a sexual context should

be caught in the legislation. An amendment was made just this afternoon to include that as part of the definition.

One of the very important amendments made today was also in the section on the definition of child pornography. Caught under the new amendment that was made today is any written material or visual representation that advocates or counsels sexual activity with a person under the age of 18.

Mr. Speaker, I will tell you what we get with this one. There is material being imported into this country from the United States. It was distributed to members of the committee. I had a look at it. This material advocates sexual activity with children under the age of 18. It promotes it. That is its reason for being. It promotes that sort of thing.

I found it disgusting. I did not even know something like this existed quite frankly. I did not know there were publications dedicated to this kind of thing but in fact it does exist. I have to ask myself, does the Canadian public accept this? I do not think they do. I still believe there are standards of decency that the Criminal Code should protect and this is a perfect example of that.

Last week we passed the stalking law which made it possible for the courts to put a lifetime prohibition against sexual molesters from hanging around parks, swimming pools and other areas where children frequent. I said that the month of June is a bad month for child molesters in this country and I say it again.

• (1845)

One of the things that interested me when I saw the publication that was distributed to this committee is it pays attention to what is happening here. It is very up on what is happening in Parliament. I see the hon. member across. His picture is in one of those as one of the bad guys, if you can imagine, for this organization which is promoting sexual activity between men and children. I hope we are all bad guys in the opinion of that particular publication. I am very proud to add my name to the list of bad guys who are opposing organizations like that. I say to that organization: "This is one bad day for you because we put that in the legislation and it is directed specifically at publications like yours so that it is in the Criminal Code and the people who enforce the laws of this country can take action. We are zeroing in on publications like yours".

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It has taken nine years to have a pornography bill put before this House. It looks like it is going to pass and I am delighted that it is going to pass. If this is the last bill of the 34th Parliament then this Chamber has brought honour on itself again as it has over these last 126 years. I think there are millions of Canadians who, if they know or find out about the contents of the bill, will say that this Parliament has done well to pass this so we can protect our children from the kind of exploitation by individuals who make money and take pleasure from hurting the children of this country.

I commend all hon. members for expediting this bill and bringing us to the threshold where this will very soon become the law of Canada.

Ms. Lynn Hunter (Saanich—Gulf Islands): Mr. Speaker, I would like to add my voice in support of this bill.

As a mother and as a woman I know the need for this type of legislation. I share the previous speaker's repugnance at those who profit from this dissemination of child pornography. I think it is aimed at our most vulnerable. It does not just hurt children physically, it hurts them in their minds.

One of the joys of childhood is having the innocence of being a non-sexual person for a while or just being able to be free in their persona. They are not little boys or little girls, they are children and they have that innocence all around them.

Pornography is really an extension of an examination of power relationships because this is what is attractive to those who consume this material. It is their feeling of power. It was the women's movement that focused our attention on that aspect of it. The women's movement should be given some credit for the success that we are having in passing this legislation.

My question flows out of the comments by my colleague from Winnipeg that child pornography is really an extension of the soft porn which is pervasive in our society. I have often wondered, watching television, what some person who would be dropped in on our society would think of our society in watching television and the images it conveys. One thinks of what a powerful device television and visual images are, the soft pornography that is there and the marketplace. We think of the money that is behind pushing children and women as

sexual beings primarily to the exclusion of any other aspect of their worth.

I would like to ask the hon. member what his views are as to the marketplace and its role in the dissemination of soft pornography because what we are examining today is an extension of that.

• (1850)

Mr. Nicholson: Mr. Speaker, the hon. member raises a very good point. It is one that I touched on concerning all the money that is involved with this. That is why there is such a substantive lobby against this. Any time we try to do something in this area very prominent Canadians, in one case one of the most prominent authors in Canada, can always be counted upon to criticize the attempts we might make in this area. It is a growing problem.

I believe that the people, as members of society, are not living up to their responsibilities to make sure that the entertainment that is available and that is widely shown to children is okay. All of us who have children have seen movies that come on television. I cringe at the amount of violence.

I say to my children, when they say they want to see such and such a movie, that it looks kind of violent. Then I find out that every kid in the class has been to see this movie. My mother-in-law told me about taking one of my children to see *Batman*. She could not believe how violent it was. She just assumed it would not be because the television program of the same name was children's fare.

It is a rude awakening for a lot of parents who may not be as careful as we might be or perhaps should be with regard to what is happening. It is out there and people are making money on this. They promote it with kids. The marketing that goes with these movies is designed to capture kids and get them to make their parents or older brother and sister take them.

That is why I worry about a subject like child pornography. I think it is actually becoming more difficult to get something like this before Parliament. It is almost as if we are fighting against a tide of commercialism and materialism that is hitting us. For my money it is becoming more difficult and that is why I am very moved by the fact that we have been able to get this bill because this will pay dividends in future years when it may become more difficult. I hope that is not the case.

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I hope that in the next Parliament we can look at the suggestion of the member for Kitchener and address some of the other areas of pornography. However if the trend continues, and it is getting tougher and tougher, Canadians will say they are glad that this is on the books, that we went as far as we did in 1993 because that law is very useful in trying to stem the tide and hold at bay those individuals who would exploit our children and abuse them.

Mr. Tom Wappel (Scarborough West): Mr. Speaker, I am honoured to be able to take part this evening in the debate on Bill C-128. I say that because in all likelihood this will be the last speech that I will deliver in the 34th Parliament.

It is historic for me personally. I gave my maiden speech on the free trade agreement, which was the first piece of legislation brought forward in the 34th Parliament. Now I am giving my closing speech on the last bill before the end of the 34th Parliament in all likelihood.

I have listened very carefully to the hon. members who have spoken before me and I propose to take a different tack and a different angle on this legislation in the time that I have. The theme for my remarks this evening can best be summed up by the adage: Where there is a will there is a way. I would like to explain what I mean by that.

As the Official Opposition critic for the Solicitor General I am privileged to sit as a member of the House of Commons Standing Committee on Justice and Solicitor General.

• (1855)

In the time that I have sat on that committee I have found it to be an excellent committee which attempts at all times to be as non-partisan as is possible in a partisan institution. It has of its own initiative delved into topics which it believed to be in the best interests of society. In my view one of the features of Bill C-128 has its genesis in the review that the justice committee undertook with respect to crime prevention.

The committee decided that it would see if it could find out what the root causes of crime were and make certain recommendations with a view to preventing that crime in the long term.

One of the things that we decided to do was travel across the country to hear different witnesses in different locations. One thing that was consistent throughout

all of the evidence, no matter where we went from coast to coast, was in the area of sexual abuse, particularly childhood sexual abuse, which was that the abused become the abusers. That is so important to recognize because, as we have heard in other studies, approximately 30 per cent of those who abuse young children are themselves young. They are young offenders. This is a shocking statistic and it demonstrates to me that the abused become the abusers.

At the time the justice committee proposed to go to Vancouver to hear evidence I was contacted by Detective Noreen Wolff of the Vancouver police department. She made me aware of an organization about which I had never heard before, and I heard the hon. parliamentary secretary say the same thing. This organization is the North American Man-Boy Love Association, NAMBLA for short. She sent me a copy of one of its publications.

Canadians could be forgiven for not knowing what NAMBLA is and what it stands for. I was shocked. What is NAMBLA and what are its aims? The following are direct quotes taken from the editorial page of the NAMBLA bulletin. In my view it is critically important that we read them into the record to understand what the bill and the amendments which were worked out in committee do, and why.

It says: "We work to organize support for boys and men who have or desire consensual sexual and emotional relationships and to educate society on their positive nature. We speak out against the oppression endured by men and boys who love one another and support the right of all people to consensual intergenerational relationships".

It continues: "NAMBLA condemns sexual abuse and all forms of coercion, but we insist there is a distinction between coercive and consensual sex. Laws that focus only on the age of the participants fail to capture that distinction for they ignore the quality of the relationship. Differences in age do not preclude mutual loving interaction between persons any more than differences in race or class".

What is the bottom line for NAMBLA? It advocates no age restriction whatsoever. Sex between a man and a tot, a young child, an infant, would be legal according to this insidious group. That is the reason it publishes its bulletin. In that bulletin it explains to people who prey on young children how to avoid prosecution, how to counsel the children that they prey on to avoid being detected, how to destroy material evidence, how to lie to

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investigators and how to take the family of the victim into their confidence.

• (1900)

This is the kind of material that the NAMBLA bulletin puts out. We heard this from Detective Wolff. We heard about other horrendous cases of child abuse from Monica Rainey from Citizens Against Child Exploitation.

When we produced our unanimous report, the 12th report of the justice committee called *Crime Prevention in Canada*, there was specific mention of this topic. Detective Wolff was quoted as saying that we need to have laws to make it an offence to possess child pornography and NAMBLA-type material.

We saw the need to do something. What did the committee recommend? We recommended that the committee address the issue of child pornography and child sexual exploitation in the context of its review of the child sexual abuse provisions of the Criminal Code scheduled to begin in April of this year.

Lo and behold we in the committee did begin a review of Bill C-15, as it was then known, one of the bills passed in the previous Parliament. We again heard evidence from various sources relating to sexual exploitation against children. We knew by this time that the government was bringing forward Bill C-128.

We recommended as follows in June 1993: "This committee endorses the intent of Bill C-128 but urges that amendments be seriously considered at committee stage to make it an offence to possess material of any kind which depicts in any manner or advocates in any format the sexual exploitation of children". I have no hesitation in saying that I was instrumental in having that provision included in this particular report.

The flaw that I saw in Bill C-128, as it was originally proposed by the government on May 13, was that it did not include written material. I thought that was a very serious flaw. That is not to say that the bill was otherwise perfect because as human beings nothing we do is perfect and we have to understand that. However in my view there was a major flaw.

Why would someone be upset about NAMBLA? I hope everybody would be upset about NAMBLA and its

aims. Even though I do not take any personal umbrage at this in issue 14(4), which is the most recent issue, my picture is shown. I am portrayed as a cad and an awful person for wanting to protect children from consensual loving relationships with men. I am proud to take that position. I do not believe that a young child has the capacity to consent to a sexual relationship with an older man.

That is not the only kind of written material we are talking about. One of the witnesses that came before us was Detective Sergeant Bob Matthews, and we have talked about him. He is from Project P. He also asked that written material be included. He said: "I am therefore recommending that the bill be amended to make it an offence to advocate adults having sex with children. This material in the form of the written word must be considered an offence to possess. Any publication that advocates adults having sex with children should be banned from this country". I say amen to that, and we discussed it.

He went further and he gave us another example. I do not for a moment intend to be graphic about this. During the course of the committee hearings, while seeing the evidence that was put forward by the witnesses, images were embedded in my memory which I wish were not there. To me they are like a brand stamped on a cow, something one can never get rid of or clear one's mind of. They were graphic images of visual representations of child pornography. This piece of work, and I use that word loosely, was taken off a computer bulletin board, accessible to anybody who could access a computer. It is written and there are no pictures. I will only read the front piece: "Warning. The story that follows is part 1 of an ongoing fantasy about the sex life of a very young, preteen girl, her friends and her mother. If you are in any way offended by this type of fantasy, please read no further and delete this file immediately. On the other hand if you enjoy reading stories about little girls having sex, then read on and enjoy".

• (1905)

What is in here is disgusting in the extreme, despicable in the extreme and is written in such a way as to glorify a little girl having sex with adults from infancy. That is something we can do without in this country.

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I want to pay tribute to the government and the Committee for listening carefully to the evidence and coming up with amendments today that dealt with these issues. I do say in passing it is unfortunate that the bill as only introduced on May 13 but it is not true to say we hurriedly went through it.

I have given the background of the two other committee reports. We have considered this issue very, very carefully for six months. We heard witnesses, professors and all kinds of interest groups and I personally asked them questions. None of them that I can remember did not include NAMBLA and its aims in their own definitions of child pornography, so these amendments came through.

I know the people of Canada are behind this bill. I want to read just one letter of many that I have received from constituents of mine. It is addressed to me and states: "I understand that the legislation, Bill C-128, to crack down on child pornography is before the House. This Bill C-128 will make it illegal to produce, sell, distribute or possess child pornography in films, videos and computer-generated images. It must be passed and should include in the definition, printed material as well as pictures".

I want to tell Mr. and Mrs. Leslie that indeed the amendment we passed today does include written material. I am very proud to have been a part of ensuring that is the case.

It also includes something else that Detective Matthews requested. It includes importation as part of the offence. We are talking about importing pictures and descriptions of gross acts of abuse against children. Who wants to import that kind of material? Who wants to read about Vicky's lessons in life? Who wants to read NAMBLA? Paedophiles. There is nobody else who wants to read this material, who wants to look at these disgusting pictures, these visual encapsulations for all time of sexual abuse of children.

If I have to choose between paedophiles and children here is no choice, ever. Our justice critic, my colleague from Cape Breton—The Sydneys said children are the most defenceless in our society and so they are. Who speaks for the children of Canada? We do in this bill.

Where there is a will there is a way, as I said at the beginning. Notwithstanding that this bill was introduced

rather late and notwithstanding that there was real trepidation it might not pass, all members in this House saw the value of this bill. All members of this House worked hard to achieve a consensus so this bill could go through and our children can be protected.

That is why I am so very proud that I am associated with this bill and what it does to protect our children and why I am honoured that I am giving this, my last speech of the 34th Parliament, on this very important subject.

• (1910)

Mr. Jesse Flis (Parkdale—High Park): Mr. Speaker, I am very pleased that I am following the member for Scarborough West and the critic for the solicitor general. In his first term as a member of Parliament he has made a very significant contribution to better the standards of living and life in Canada. This member and all members who have spoken on this bill have made Canada the number one country as declared by the United Nations last year. Unfortunately we dropped to second place in 1993.

I have been exposed to child pornography and sexual abuse of children because of my 28 years of work with the Toronto Board of Education and many of those years in special education. As a consultant in special education I had teachers working in what they then called juvenile court. Today it is called the detention home.

It was always sad and heartbreaking to see young adults anywhere from 14 to 18 being locked up behind bars. While they were waiting appearance before the judge our Toronto Board of Education teachers had to do an educational assessment, psychologists did a psychological assessment and so on.

Once we got into the history of these young adults most of them had been subjected to some sort of abuse when they were young children or even infants. There were stories such as a mother bringing in men not to offer her body for sex but to offer the body of the little girl for sex with various men. This woman at 18 ended up in court year after year.

Young boys were caught for breaking and entering, assault or not listening to the teacher or their parents. They would run away and be picked up. Again we could trace their history to being beaten, harassed or sexually abused as children.

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I am very pleased to add my support to this Bill C-128. I am a little perturbed that it took the government nine years to bring this bill to its final stage tonight or tomorrow when it gets its final blessing. I congratulate the hon. member for Kitchener for fighting so hard for his private member's bill. He wants to get re-elected and we need members like this, but I hope his party does not get re-elected because we cannot move important bills like this so slowly.

No one has mentioned where some of these children come from who are photographed in various sexual positions with adults. The hon. member for Scarborough West and I co-moderated a conference in the greater Toronto area on crime prevention and community safety and we had the police from all levels of government. One of the police officers brought journals of child pornography. It was sickening.

I learned after that conference that some of these children are sold by parents in developing countries because of the poverty there. The only way these parents could survive was to sell some of their children for child pornography. This message I will never forget.

I think we should keep it in mind as a country blessed with all the riches and resources we have in Canada that the first area of our budget we usually cut is official development or overseas development. The message I get is that charity begins at home.

• (1915)

Why are we sending millions to this country? Why are we sending millions here? The next time we are asked that question let us think of what that poverty does to the defenceless children in those countries. Some of them are coming to our country in the form of pictures and in the form of child pornography.

We have a duty not only to Canadian children but we have a responsibility as world citizens to children around the world. Every country spoke very wisely at the children's conference at the United Nations a few years ago. Then after the conference every one forgets the recommendations we have made.

I appeal to members of Parliament not only in this House but to those in parliaments and governments around the world regardless of what system they are using to govern their country to remember the children. They must not be sexually abused. They must be properly

fed and clothed. They must not end up in the magazines of child pornography.

Everything else I wanted to say has been said but I wanted to put that on the record. Another point I want to put on the record concerns the kindergarten and grade one children who I see going to our schools who are being harassed at the corners and on the streets by street gangs. A group of young adults would get together and harass the young children going to and from school. That is not a good way to raise our children.

The other thing I feel sorry for with these five and six-year olds is the kind of drug trafficking and prostitution that they have to look at in broad daylight again on the way to school, on their way home for lunch and after school.

This is what I and the politicians in Parkdale—High Park are trying to wipe out. It is not only the politicians but we have excellent community involvement. We have excellent police support now. As the whole community gets involved we will hopefully clean up our communities so that at least the four and five-year olds who are going to kindergarten will not be exposed to the kinds of sexual acts that they see at that young age. What impression does that leave on these young minds?

I am pleased that this is the final bill. I am pleased that after the next election hopefully governments will change because we are finally seeing that we have to raise the standards in this country. We have to raise the standard of living and that includes health, education, safety in the homes, safety in the communities, safety in the public institutions and safety on our streets.

I will close there but again I congratulate all three parties and especially the members who were so active in committee and who were so active in the debate in the House.

Mr. George S. Rideout (Moncton): Mr. Speaker, I too wanted to just rise in my place and speak for a few short minutes on this particular bill and its fundamental effects that we are hoping it will have.

I do not think any of us in the House would argue that child pornography is right up there on the scale of one of those very heinous crimes that has been perpetrated on society from time to time. Even with all of the witnesses, some of whom questioned whether the legislation is proper and whether we are going in the right direction with respect to the legislation, it was unanimous that the

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me that we are trying to prevent is one worth trying to event.

the extent that we felt the written word as well should be included.

It is only a question of methodology that we have to deal with. All of us on the committee felt that Bill C-128 as a valiant attempt. I know that the opposition has been saying over the last number of days and weeks that there has been lots of justice legislation coming before the House. We have been forced to deal with that legislation rather rapidly and this bill is no exception. It was introduced quickly. In fact we finished with the witnesses this morning in committee and then did clause by clause and used the rules to the best advantage in order to be here this evening and to have third reading.

My concern is that by including the written word we may find ourselves vulnerable to a charter challenge. However I guess in these circumstances one says: "Do we not do something for fear of a charter challenge or do we do something and then see what takes place afterward?"

In the area of child pornography I think we opt for the second alternative and do what we think is right. If it does not pass the test then we will try to correct it later on.

(1920)

An effort was made to get something on the books before Parliament is finished that will deal with child pornography. Whether we have achieved what we want with this legislation is the \$64 question. I think we have made a valiant attempt.

The other benefit in this legislation is the fact that possession, not just the importation, distribution and selling which is bad enough as it is, is also a crime. It is a crime because it is utilized by paedophiles and by others in order to entice children into child pornography and also into other areas of sexual abuse as I consider it. For that reason possession as an offence allows our police forces to step in and eradicate that.

In some respects I would have preferred to have more time to hear more witnesses because it was interesting even today listening to those people who are involved in the artistic community and in film, radio and television telling us about their concerns with respect to this bill. In that sense it would have been nice if we had had that input and time to really go over the exact words. However we find ourselves here in the opposition having to deal with an agenda which is to move this legislation quickly and our choice was between no legislation or this legislation with amendments.

I have one concern in what we have done today. I will say it succinctly and then finish. We have established under the Criminal Code a large body of law which deals with pornography and obscenity and all of those cases. This culminates in the decision by the Supreme Court of Canada in Butler. I am worried that what we are doing with this particular bill is setting that all aside and forcing the courts to now develop some new tests and some new frameworks which deal specifically with child pornography.

We have taken the choice of this legislation with amendments. I think the amendments will go a long way toward helping improve this law. One of the key ones which was put forward by the opposition originally was in the area of the written word and that goes beyond what was first contemplated in clause 2 of the bill which is really amending clause 163.1 dealing with the definition and what constitutes child pornography.

One of the recommendations which we received from the Canadian Film and Television Production Association was a recommendation that perhaps we should try to tie child pornography into existing legislation so that the body of law that has been built up over the years would be there and support child pornography. We would then not run the risk of facing a charter challenge and in fact losing the legislation that deals with child pornography.

We have added the written word as well. I think we were all shocked when we saw some of the things that were sent on their computers from one place to the other. The language and the explicit details which were contained within those computer messages shocked us to

I found their comments quite persuasive. I wish we had had the time to do that properly because there are some risks in what we are doing.

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• (1925)

However, again we are faced with that same old decision of no law or this law. We are dealing with the heinous crime of child pornography. It is bad for those who view it but doubly worse for those children who are forced to participate in the actual production of child pornography. When I was faced with those decisions, I fell on the side of this legislation or no legislation.

I wish we could have done a better job but this is better than nothing.

Mr. Derek Lee (Scarborough—Rouge River): Mr. Speaker, I am very pleased to make a few remarks on this important bill which prohibits child pornography.

A number of members worked closely on the justice committee to ensure that a bill was passed before this Parliament dissolved. Although that may be imminent, we were all of the view that this was an extremely important matter. It was a matter that had been left too long for too many years with too much dithering. We would be collectively less than responsible if we failed to take advantage of the timeframe and the apparent political willingness of all parties to enact a bill which would address this very significant and growing concern in Canadian society.

The adaptation of the minister and his staff in working with the justice committee enabled the committee members to produce a bill that we felt was effective for the purpose intended. This is only the second time the bill has been before the House.

The bill in some respects limits a freedom some people in Canadian society would claim. Although not all people claim the right to use and abuse our children sexually, some do and it apparently is a growing market. In that context, we felt that we had an act and that we had a better bill.

It is important to provide some perspective, some background and some context from my point of view as an MP as to why the bill is the way it is and why we feel compelled to pass it at this time.

The first of three things I have to say about the bill is that it was criticized at committee by very responsible, credible and leading spokespersons for the film industry, the television industry and the writers' organizations. These are all legitimate and most important segments of our Canadian cultural community. They have suggested

that the bill goes too far in some respects. It is too much and not finely crafted enough to address their needs in their fields.

They felt that Parliament's prohibiting depictions of explicit sexual activity involving children would impair their ability to pursue work in their fields. It would have a chilling effect on their work in television, in the film industry, in the field of creative writing and other areas. The bill says that you may not depict in a film, in a video or in pictures explicit sexual activity involving a child. The bill defines a child as someone under the age of 18.

• (1930)

The bill also prohibits the use of the written word to depict explicit sexual activity. The bill also prohibits the advocacy of sexual activity between adults and children. That goes quite far. The last portion I have just described was an amendment made at committee because there was real concern about that area.

In fact some people in Canadian society over the last few months basically dared Parliament. Their little group, relying on their interpretation of the Canadian Charter of Rights and Freedoms, dared Parliament and the Canadian people to try and infringe upon their right to advocate the sexual abuse of children, the sexual plundering of our youth. We were up to the challenge.

We were not fighting the people in the arts and culture community or the film or television industries. We responded to protect our youth. This is a technical issue and it is our view that when this bill mentions written matter, it is not just about something that can be read on a piece of paper. My colleagues have described some of the ugly sexual treatment of children that exists today in our society. It does not involve just that print on a piece of paper.

When we use the term in Parliament, and I am saying this for the record, we are talking about printed matter and written matter that is contained on a computer chip, in a computer memory, on a computer screen or on a television monitor. We are not just talking about written and printed matter on a piece of paper. We are talking about something that is written in a literate manner which portrays and depicts explicit sexual activity. I say that for the record, in case there is any doubt at any time as to what the intentions of Parliament were when it enacted this legislation.

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the second element I wanted to address was the definition of a child. I simply wanted to put on record that from my point of view there was a question as to whether the children we wanted to protect would be those under the age of 18 or whether it would be a younger age, maybe younger than 17, 16 or 15; I do not know. The committee and members by consensus have chosen the age put forward by the government. They have selected as anyone under the age of 18. I accept that as a necessary consensus to allow the bill to go forward.

The third item is the alleged chill effect the bill may have in the cultural and creative communities that produce films, books, art and movies.

There is a burden here on our police, our prosecutors and other public officials to ensure that when the Criminal Code is applied—and particularly this provision that we hope to enact now—that they are acting responsibly and take full account of the defences that are expressed in the bill.

Defences are set out very clearly in the bill which allow a person a defence in cases of medical, educational or scientific purpose in terms of works of art that have artistic merit. As someone has pointed out, surely today in museums of art in this country and around the world there are depictions of human beings under the age of 18 who may be shown in some form of activity that may fall within the explicit sexual activity definition of this bill.

• (1935)

I plead with reasonable-minded public officials in Canada to make sure that when they follow the provisions of this section of the act, they take into account all of those provisions.

I put to those people who complained there would be a chilling effect on television, in the film industry and in the writing industry that our goal is to protect our children and not to create a chilling effect on their creative talents. They have all the world at their disposal to write and create and portray. I say to them, leave the sexual activity out so that our children are not exposed to it, because it is not a part of our society's program. We do not want it and we do not give them licence to portray it in their creative work.

Last, I want to acknowledge the work of several members on the justice committee, not specifically but

generally, who have worked in this area and have been very helpful in developing the bill. The Parliamentary Secretary to the Minister of Justice has also been constructive, as have the staff of the committee, in developing amendments to a bill that suits the needs, we believe, of all members of the House.

The Acting Speaker (Mr. DeBlois): Is the House ready for the question?

Some hon. members: Question.

The Acting Speaker (Mr. DeBlois): Is it the pleasure of the House to adopt the motion?

Some hon. members: Agreed.

Motion agreed to, bill read the third time and passed.

PROCEEDINGS ON ADJOURNMENT
MOTION

[English]

A motion to adjourn the House under Standing Order 38 deemed to have been moved.

NATIONAL DEFENCE

Mr. Fred J. Millin (Bourassa—Trinity—Conception): Mr. Speaker, this is probably the last late show we will have in this session of the 34th Parliament. Probably it will be the last late show ever in this 34th Parliament.

I want to run through quickly the follow-up on a question which concerns the chronology of events in Somalia in the middle of March, which pertains to the question. The chronology of events essentially were these.

On March 16 a Somali prisoner was found beaten unconscious in his cell and he later died in custody. On March 17 the Minister of National Defence was briefed by senior military personnel on the situation. The next day, March 18, the defence department posted a news release on this beating death 260 kilometres away from the incident in Mogadishu. The release said the man had been detained and had died in custody. No further details were offered. No Canadian journalist reported seeing the release and it was not passed to Ottawa for distribution. On March 18, the same day, a master corporal was arrested and placed under close custody in

Definition of child pornography in other jurisdictions

Australia	Canada	UK	US
<ul style="list-style-type: none"> • “Child pornography” means a film, photograph, publication or computer game that describes or depicts a person who is, or looks like, a minor under 16 engaging in sexual activity or depicted in an indecent sexual manner or context. • “Child” means a person, who is, or looks like, a minor under 16. 	<p>Section 163.1 of the Criminal Code defines child pornography as : -</p> <p>(a) a photographic, film, video or other visual representation, whether or not it was made by electronic or mechanical means,</p> <p>i) that shows a person who is or is depicted as being under the age of 18 and is engaged in or is depicted as engaged in explicit sexual activity, or</p> <p>ii) the dominant characteristic of which is the depiction, for a sexual purpose, of a sexual organ or the anal region of a person under the age of 18; or</p> <p>b) any written material or visual representation that advocates or counsels sexual activity with a person under the age of 18 that would be an offence under the Criminal Code of Canada.</p> <ul style="list-style-type: none"> • “Child” means a person who is or is depicted as being under the age of 18. 	<ul style="list-style-type: none"> • The preamble of the Protection of Children Act 1978 states that the Act is to prevent the exploitation of children by making indecent photographs of them; and to penalise the distribution, showing and advertisement of such indecent photographs. • The Act then provides taking, distributing, showing, possession and advertising, etc, such indecent photographs or pseudo-photographs as offences. • The Act then provides definitions for photographs, film, pseudo-photographs, etc. “Pseudo-photographs” means an image, whether made by computer-graphics or otherwise howsoever, which appears to be a photograph. • There is no particular definition for “child pornography”. • “Child” means a person under the age of 16. 	<ul style="list-style-type: none"> • According to the Child Pornography Prevention Act 1996, “Child pornography” means any visual depiction including any photograph, film, video, picture or computer or computer-generated image or picture whether made or produced by electronic, mechanical or other means, of sexually explicit conduct where : - <p>(a) its production involved the use of a minor engaging in sexually explicit conduct, or</p> <p>(b) such visual depiction is or appears to be of a minor engaging in sexually explicit conduct;</p> <p>(c) such visual depiction has been created, adapted or modified to appear that an ‘identifiable minor’ is engaging in sexually explicit conduct; or</p> <p>(d) it is advertised, promoted, presented, described or distributed in such a manner that conveys the impression that it is or contains a visual depiction of a minor engaging in sexually explicit</p>

			<p>conduct.</p> <ul style="list-style-type: none"> • “Sexually explicit conduct” means actual or simulated – <p>(a) sexual intercourse, including genital-genital, oral-genital, anal-genital, or oral-anal, whether between persons of the same or opposite sex,</p> <p>(b) bestiality,</p> <p>(b) masturbation,</p> <p>(d) sadistic or masochistic abuse (for the purpose of sexual stimulation); or</p> <p>(e) lascivious exhibition of the genitals or pubic area of any person.</p> <ul style="list-style-type: none"> • This definition of child pornography includes that which actually depicts the sexual conduct of real minor children and that which appears to be a depiction of a minor engaging in sexual conduct. People who alter pornographic images to look like children can now be prosecuted under this law. • “Child” means a person under the age of 18.
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Prosecution cases against child pornography in overseas countries

United States

- <http://www.fbi.gov/pressrel/pressrel02/cm031802.htm>
- http://www.usdoj.gov/criminal/ceos/op_av_pr.htm
- http://www.usdoj.gov/criminal/ceos/op_av.htm

Canada

- <http://ca.news.yahoo.com/020121/6/hjag.html>

United Kingdom

- http://www.thisislondon.co.uk/dynamic/news/story.html?in_review_id=489666&in_review_text_id=447005

Australia

- <http://www.theage.com.au/news/state/2001/11/29/FFXTD0RELUC.html>

Italy

- <http://www.newsfactor.com/perl/story/4680.html>