



MP ACTS TO PROTECT WOMEN FROM HATE PROPAGANDA

“The disrespectful, degrading, contemptuous treatment of women is so pervasive and so mainstream that it has just about lost its ability to shock.”¹

Toronto, Ontario – April 12, 2007: On April 19, 2007, Liberal MP Borys Wrzesnewskyj (Etobicoke Centre) will again introduce a special motion in the House of Commons requesting all party support for Bill C-254, his Private Member’s Bill that adds women to the groups protected under the *Criminal Code* hate propaganda law. Currently, the law only protects those identified by colour, race, religion, ethnic origin and sexual orientation, the latter having been added in 2003 through a Private Member’s Bill introduced by NDP MP Svend Robinson (Bill C-250). Requests made to politicians at that time to include women in Bill C-250 were refused outright or ignored, leaving the female half of the Canadian population unprotected from the promotion of hatred and violence.

Women treated as second class citizens: During the debates on Bill C-250, MP Svend Robinson told the House of Commons, “The failure to include gay and lesbian people sends out the message that we are, in fact, second class citizens in our own country.”² In upholding the hate propaganda law against a constitutional challenge, the Supreme Court of Canada noted that the law “serves to illustrate to the public the severe reprobation with which society holds messages of hate... It makes that kind of expression less attractive and hence decreases acceptance of its content...”³ The reverse is also true, and the refusal by past governments to add women to the law not only sends the message that we are second class citizens in our own country, but tells Canadian society at large that misogynist forms of expression are acceptable.

Over 20 years ago, the Special Committee on Pornography and Prostitution stated there was “ample evidence” proving women were the targets of messages promoting hatred, a conclusion the Committee reached following cross-country hearings.⁴ The situation has since deteriorated to the point where a New York Times columnist recently commented that, “The disrespectful, degrading, contemptuous treatment of women is so pervasive and so mainstream that it has just about lost its ability to shock.”⁵

Bill C-254: Mr. Wrzesnewskyj first introduced his Private Member’s Bill two years ago (as Bill C-385). Speaking in the House of Commons, he said: “By enacting this change to the *Criminal Code*, Parliament can begin to address the serious issue of promoting hatred and violence against women. This is an amendment that should have been made long ago. I hope my colleagues on all sides of the House will support this worthy and overdue initiative.”

Continued ...2

¹ *Why aren't we shocked?* New York Times, Bob Herbert, October 16, 2006

² House of Commons Debates, Hansard, May 29, 2002

³ R. v. Keegstra, Supreme Court of Canada, 1990

⁴ *Pornography and Prostitution in Canada, Report of the Special Committee on Pornography and Prostitution, Supply and Services Canada, Ottawa, 1985*

⁵ *Why aren't we shocked?* New York Times, Bob Herbert, October 16, 2006

Later that year, in an effort to get the law passed, he proposed adoption of the following motion:

That, notwithstanding any Standing Order or usual practices of the House, Bill C-385 be deemed to have been read a second time, referred to committee of the whole, reported without amendment, concurred in at report stage, read a third time and passed.

“This is especially appropriate,” he said, “as in two weeks we will be marking the 14th anniversary of the massacre that took place at Montreal's l'École Polytechnique.” Unfortunately, the motion was defeated by Conservative politicians, but Mr. Wrzesnewskyj persevered and reintroduced the Bill in May 2006 as Bill C-254. Next week, he will, again, introduce the special motion, and it is hoped that this time all parties will come together to vote in favour of this important legislative change.

Recent support: In January, an Ontario coalition of teachers, parents, police and victim advocates made a public appeal to the federal government to change the hate propaganda law to extend protection to women and girls. In speaking at a Queen's Park press conference, Rhonda Kimberley-Young, President of the Ontario Secondary School Teachers' Federation, said:

Public incitement of hatred is acknowledged as a contributing factor in encouraging violence against a target group. **We believe that leaving girls and women off the list compromises their safety.** ... We are adding the voice of the media violence coalition to a long list of individuals and organizations that includes groups as diverse as the National Action Committee on the Status of Women, the Special Committee on Pornography and Prostitution, Law Reform Commission of Canada, **and James Flaherty, Attorney General of Ontario**, among others.⁶ (emphasis added)

The coalition, brought together by the Ontario Public School Boards' Association (OPSBA), includes the Canadian Centre for Abuse Awareness, Elementary Teachers' Federation of Ontario, Ontario Catholic School Trustees' Association, Ontario English Catholic Teachers' Association, Ontario Federation of Home & School Associations, Ontario Principals' Council, Ontario Provincial Police, Ontario Secondary School Teachers' Federation, and Ontario Student Trustees' Association.

Past Conservative support: In October 2000, when federal Finance Minister James Flaherty was Attorney General of Ontario, he tried to prevent misogynist rapper Eminem from performing in Toronto because of the violence against women he promotes in his lyrics. Mr. Flaherty was unsuccessful, however, because women are excluded from the *Criminal Code* hate propaganda law. At the time, he wrote to Liberal Justice Minister Anne McLellan, asking her to change the law to include women, and he promised to **“continue to ask the federal government to expand the definition of identifiable groups to include gender.”**⁷ In a letter to Toronto activist Valerie Smith, who initiated the protests against Eminem's Toronto concert, Mr. Flaherty said:

“We must have the tools to bring to justice those who spread hatred against others. It is time for the federal government to provide such tools to prosecute those promoting hatred against women by amending the Criminal Code. The public has a right to be safe.”⁸

Continued ...3

⁶ Media conference speaking notes, *Media Violence – Not a Pretty Picture*, January 17, 2007

⁷ Letter to Valerie Smith from Attorney General Jim Flaherty, December 20, 2000

⁸ Ibid

Since his election federally, Smith has written twice to Mr. Flaherty, asking him to honour the commitment he made while he was Ontario Attorney General, but she has received no response. On April 19, he will have an opportunity to make good on his promise by supporting the motion introduced by Borys Wrzesnewskyj.

Press conference and introduction of motion: On April 19 at 10:00 am, Mr. Wrzesnewskyj will hold a press conference on Parliament Hill to inform the public of his intention to introduce the motion later that day. As the vote will be unrecorded, observers are encouraged to attend the afternoon session of Parliament to note the names of politicians who vote against the motion.

Going into a federal election, voters – particularly women – have a right to know where **all** politicians stand on this fundamental issue of human rights.

Additional info: See attached Backgrounder and the Hate Propaganda section on The Free Radical web site.

For further information, contact Valerie Smith at valsmith@fradical.com (cell) 647-267-1783

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About The Free Radical: The Free Radical web site (www.fradical.com) is maintained by Toronto anti-violence activist Valerie Smith to provide information on media violence and strategies for combating it. Smith has lobbied on media violence issues for the past sixteen years, with a particular focus on the treatment of women and girls in popular culture. She is the author of the *Action Agenda: A Strategic Blueprint for Reducing Exposure to Media Violence in Canada*, funded and published by Ontario's Office for Victims of Crime, an agency of the Ministry of the Attorney General. The report is available for free download from The Free Radical web site.

BACKGROUNDER

Summary of support: Adding women to the protected groups has been recommended by:

- National Action Committee on the Status of Women (1983)
- Canadian Advisory Council on the Status of Women (1985)
- Special Committee on Pornography and Prostitution (1985)
- Law Reform Commission of Canada (1986)
- Raymond Hnatyshyn, Minister of Justice (1987)
- B'nai Brith League for Human Rights (1994)
- James Flaherty, Attorney General of Ontario (2000)
- Michael Bryant, MPP, Ontario Liberal Party Attorney General Critic (2000) – Mr. Bryant is currently the Attorney General of Ontario
- Ontario Public School Boards' Association media violence coalition (2007), which includes
 - Canadian Centre for Abuse Awareness
 - Elementary Teachers' Federation of Ontario (ETFO)
 - Ontario Catholic School Trustees' Association (OCSTA)
 - Ontario English Catholic Teachers' Association (OECTA)
 - Ontario Federation of Home & School Associations (OFHSA)
 - Ontario Principals' Council (OPC)
 - Ontario Provincial Police (OPP)
 - Ontario Secondary School Teachers' Federation (OSSTF)
 - Ontario Student Trustees' Association (OSTA)

Excluding Women from the Hate Propaganda Law is Unconstitutional

The omission of 'sex' from the definition of identifiable groups in the *Criminal Code* hate propaganda law violates Section 15 of the *Charter*, which states:

Every individual is equal before and under the law and has the right to the equal protection and equal benefit of the law without discrimination and, in particular, without discrimination based on race, national or ethnic origin, colour, religion, sex, age or mental or physical disability.

House of Commons Debates, Hansard, May 4, 2006

Mr. Borys Wrzesnewskyj (Etobicoke Centre, Lib.)

Moved for leave to introduce Bill C-254, An Act to amend the Criminal Code (hate propaganda).

He said: Mr. Speaker, I want to table, for a second time, my private member's bill, an act to amend the Criminal Code regarding hate propaganda.

The purpose of the bill is to expand the definition of an identifiable group under the hate propaganda provisions of the Criminal Code to include any section of the public distinguished by its gender. The way our current law is written, it is prohibited to propagate hate against an individual because of colour, race, religion, ethnic origin or sexual orientation. However, it is not against the law to propagate hate against individuals because of their gender.

By enacting this change to the Criminal Code, Parliament can begin to address the serious issue of promoting hatred and violence against women or men. This is an amendment that should have been made long ago. It is my sincere hope that my colleagues on all sides of the House will support this worthy and overdue initiative.

(Motions deemed adopted, bill read the first time and printed)

House of Commons Debates, Hansard, May 11, 2005

Mr. Borys Wrzesnewskyj (Etobicoke Centre, Lib.)

Moved for leave to introduce Bill C-385, an act to amend the Criminal Code (hate propaganda).

He said: Mr. Speaker, I rise today to table my first private member's bill, an act to amend the Criminal Code regarding hate propaganda.

The purpose of the bill is to expand the definition of an identifiable group under the hate propaganda provisions of the Criminal Code to include any section of the public distinguished by its gender.

The way our current law is written, it is prohibited to propagate hate against an individual because of colour, race, religion, ethnic origin or sexual orientation. However, it is not against the law to propagate hate against an individual because of their gender. By enacting this change to the Criminal Code, Parliament can begin to address the serious issue of promoting hatred and violence against women.

This is an amendment that should have been made long ago. I hope my colleagues on all sides of the House will support this worthy and overdue initiative.

(Motions deemed adopted, bill read the first time and printed)

House of Commons Debates, Hansard, November 23, 2005

Mr. Borys Wrzesnewskyj:

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

Discussions have taken place between all parties with respect to Bill C-385, an act to amend the Criminal Code (hate propaganda) which received first reading on May 11, 2005. I hope to find consent for the following motion, "That, notwithstanding any Standing Order or usual practices of the House, Bill C-385 be deemed to have been read a second time, referred to committee of the whole, reported without amendment, concurred in at report stage, read a third time and passed".

This is especially appropriate as in two weeks we will be marking the 14th anniversary of the massacre that took place at Montreal's l'École Polytechnique.

The Speaker:

Does the hon. member for Etobicoke Centre have the unanimous consent of the House to propose this motion?

Some hon. members: Agreed.

Some hon. members: No.

Examples of Misogynist Expression

In 2002, a northern Ontario man, Donald Smith, was convicted of making, possessing and distributing obscene material through a sexual sadism website. Approximately 2,000 subscribers paid about \$50 to be members of the site where they could view films showing “woman-hating snipers executing victims, with blood gushing and flesh ripping in slow motion”. Initially, the OPP looked at the possibility of laying hate crime charges against Smith because of the way women were depicted in the material. “Unfortunately”, said the OPP’s Wayne Harrison, “the hate laws in Canada do not include gender as a group that can be the victim of a hate crime”. So, he was charged under the obscenity law, although there was no explicit sex in most of the material.

The films typically showed a killer surprising a woman showering or sun-bathing. The victim was knifed or shot at close range in the breast or genitals, with special effects used to heighten the blood and gore. One of the major issues in the case was whether the combination of nudity and violence depicted in the films met the *Criminal Code* definition of obscenity. A jury in Fort Frances believed it did, and Smith was fined \$100,000, put on probation for three years and prohibited from using his websites or the Internet.

Smith appealed his conviction and the case was heard on February 8 by the Ontario Court of Appeal. The defence factum presented to the Appeal Court acknowledged that the videos displayed images of “nude or partially clad women who were subjected to violence by shootings with guns, or arrows, or inflicted by knives or sword”. Defence counsel, Brian Greenspan, argued, however, that Smith’s films did not meet the legal definition of obscenity because they featured “an abundance of violence”, but sexual activity was virtually absent. “You don’t have obscenity unless you have explicit sex coupled with violence,” Greenspan told the Court. His client, he said, took care to research landmark obscenity decisions before he began making films.

In July 2005, the Ontario Court of Appeal released their decision on Smith and ruled that “sexualized nudity” is not sufficient to constitute explicit sex under the *Criminal Code* definition of obscenity and set aside a number of convictions against Smith. The Court ordered a new trial on several counts and upheld an obscenity conviction on only one charge relating to graphic stories available on the Web site. The fine was reduced to \$2,000 and the appeal court noted that there was no jurisdiction, as a term of probation, for Smith to be ordered to turn over his interest in the Web sites to the Crown.

http://www.fradical.com/Articles_on_Donald_Smith_trial1.htm

December 2000, Toronto Transit Commission officials wanted the Toronto Police to lay hate crime charges against a man who repeatedly defaced TTC stations with misogynist graffiti. The words “death” and “kill” were used in some of the writings. Two of his favourites were “Toronto women are evil snakes” and “It’s a man’s world, bitch”⁹

⁹ *Man suspected of anti-woman graffiti arrested*, National Post, December 7, 2000

http://www.fradical.com/TTC_ask_police_to_lay_hate_crimes_charges.htm

June 2004, a former Georgian College student was convicted of uttering death threats and mischief for posting misogynist messages on classroom blackboards. Sample postings: "All women are filthy fucking whores... die all women. Kill all women". His lawyer argued that writing "All women should die" is every man's right under the *Charter*. The Judge disagreed with him, and he was given 90 days to be served intermittently.¹⁰

http://www.fradical.com/Death_threat_not_art.htm

Hate rap: "Misogynist" is the word commonly used by the news and entertainment media to describe the lyrics of violent rappers like Eminem. During the Eminem controversy in 2000, for instance, a Globe and Mail editorial described the rapper's lyrics as "sick-making; they express an odious hatred of women,"¹¹ yet he performed at SkyDome before 20,000 young fans. Because of the enormous popularity of violent rap, misogynist language has spread into other aspects of society, e.g., Bell Mobility's "Pimptones", spoken word ringtones that featured abusive language and/or violence against women.

<http://www.fradical.com/Eminem.htm>

Equal Treatment, Respect and Concern for Women

After the hate propaganda law was amended in 2003 to include "sexual orientation", organizers cancelled the Ontario concerts by Jamaican dancehall artist, Beenie Man, scheduled for London and Toronto, "due to ongoing concerns and pressures regarding Beenie Man's controversial lyrical content". Some of Beenie Man's lyrics advocate violence against gays and lesbians. The same month (August 2004), Egale Canada issued a press release calling on Judy Sgro, Canada's Immigration Minister, to deny entry to another performer, Sizzla, because of similar concerns over his lyrics, and the Egale release cited the recently-amended *Criminal Code* hate propaganda laws.

http://www.fradical.com/Beenie_Man_concerts_cancelled_in_Ontario.htm

http://www.fradical.com/songs_of_hatred_not_welcome.htm

Entertainer Declaration: In response to the homophobic lyrics of some performers, the Canadian High Commission in Jamaica introduced an Entertainer's Declaration that performers from that country are required to sign before they can come to Canada. "All entertainers going to Canada are required to sign a declaration that states that the entertainer will not engage in activities in Canada that will break the Canadian Criminal Code, or engage in or advocate the hatred of persons because of race, national or ethnic origin, colour, religion, sex or sexual orientation," states a release sent from the High Commission to the Jamaica On Line Star. "Sex" is included in this document, but the Declaration is only required for Jamaica and doesn't affect performers from other countries. However, this situation does illustrate that the Canadian government has no qualms about curtailing freedom of expression if that expression promotes hatred towards gays and lesbians. The government should have the same concern for expression promoting hatred of women.

¹⁰ *It was death threat, not art: Judge*, Toronto Sun, June 16, 2004; *'Artist' jailed 90 days*, Toronto Sun, November 9, 2004

¹¹ *Confronting Eminem*, Globe and Mail editorial, October 27, 2000

http://www.fradical.com/No_entry_without_signing_entertainer_declaration.htm

Hate rock prohibited and prosecuted: White supremacist hate rock bands are stopped at the border, while creators and sellers of hate rock music are prosecuted in Canada. Changing the law will only mean that women have the same protection as other vulnerable groups, a right that is guaranteed under the Charter.

http://www.fradical.com/Hate_rock_in_toronto1.htm