



News Release

TORIES CHALLENGED TO MARK DECEMBER 6 WITH ACTION ON HATE LAW

“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 – December 4, 2006: The Conservative government should mark December 6 by promising to amend the *Criminal Code* hate propaganda law to include women, a legislative change that is long overdue. Currently, only groups identified by colour, race, religion, ethnic origin and sexual orientation are protected by this law. Back in 1985, there was “ample evidence” that women were the targets of messages promoting hatred, a conclusion reached by the Special Committee on Pornography and Prostitution following cross-country hearings.² 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.”³

Last year, Liberal MP Borys Wrzesnewskyj (Etobicoke Centre) introduced a Private Member’s Bill (C-385) to expand the definition of “identifiable group” in the hate propaganda law to include women. Speaking in the House of Commons, Mr. Wrzesnewskyj 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.”⁴

In an attempt to get the Bill passed, he proposed adoption of this motion in November 2005: That... 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.”⁵ Unfortunately for women, the motion was defeated, but Mr. Wrzesnewskyj persevered and reintroduced the Bill again in May of this year (C-254). Private Member’s Bills rarely become law, and the Conservative government is being challenged to stand up in the House of Commons on December 6 -- a day designated by Parliament as a *National Day of Remembrance and Action on Violence Against Women* -- and do something meaningful for women by adopting this Bill as government policy.

As Ontario AG, James Flaherty promised to act: Women in Canada are routinely the targets of misogynist forms of expression, yet we are denied the same legal protections granted to other vulnerable groups. In August, Smith sent a letter to federal Minister of Finance, James Flaherty, asking him to honour the promise he made five years ago when he was Attorney General of Ontario. Responding to a complaint filed by Smith with the Toronto Police hate crimes unit, the Attorney General tried to stop misogynist rapper Eminem from performing at Sky Dome in October 2000, but

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

² *Pornography and Prostitution in Canada, Report of the Special Committee on Pornography and Prostitution*, Supply and Services Canada, Ottawa, 1985

³ *Why aren’t we shocked?* New York Times, Bob Herbert, October 16, 2006

⁴ House of Commons Debates, Hansard, May 11, 2005

⁵ House of Commons Debates, Hansard, November 23, 2006

was unsuccessful because women are excluded from the hate law. He wrote to Justice Minister Anne McLellan, calling for amendments to the *Criminal Code* hate propaganda law to protect women, and told Smith:

I will continue to ask the federal government to expand the definition of identifiable groups to include gender.

*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.*⁶

At the time, he didn't have the power to bring about this legislative change, but now he does, and it is essential that he keep his promise and ask the Justice Minister "to expand the definition of identifiable groups to include gender".

During the debates on Bill C-250, a Bill that added sexual orientation to the hate propaganda law in 2003, NDP MP Svend Robinson said "The failure to include gay and lesbian people sends out the message that we are, in fact, second class citizens in our own country."⁷ In upholding the hate propaganda law against a constitutional challenge, the Supreme Court of Canada said 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..."⁸ 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.

Unconstitutional exclusion: Past governments have managed to ignore the fact that the omission of women from Canadian laws is *unconstitutional*. Section 15 of the *Charter* states that "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." Women have a constitutional *right* to this law, a right that has been denied for far too long.

Past recommendations: Adding women to the protected groups has been recommended in the past 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

Smith recently met with Liberal MP Dan McTeague (Pickering Scarborough East) and obtained his support for adding women to the hate propaganda law, and she will be requesting a meeting with representatives of the Liberal Women's Caucus. "Getting the law changed to protect women from

⁶ Letter to Valerie Smith from The Hon. James Flaherty, Attorney General of Ontario, December 20, 2001

⁷ House of Commons Debates, Hansard, May 29, 2002

⁸ R. v. Keegstra, Supreme Court of Canada, 1990

hate propaganda should be one of the priorities in the Women's Caucus Pink Book," says Smith. "If the Tories don't act, the Liberals must."

No protection for women in Ontario under *Human Rights Code*: In September 2005, Smith filed a complaint with the Ontario Human Rights Commission against HMV Canada Inc., over their sale of hate rap CDs. Following an investigation, the Commission released a decision in September 2006 saying, basically, that selling hate material targeting women doesn't violate the *Ontario Human Rights Code*, provided women are given equal access to it, and the hate material is sold in a tasteful manner that doesn't "poison" the store environment for women. That means women have no protection from hate material under the *Criminal Code* and no protection under the *Human Rights Code*.

Cynthia Watson, a partner with Watson Labour Lawyers and counsel for Smith on the HMV complaint says, "The omission of gender from the *Criminal Code* hate provisions violates the *Charter of Rights and Freedoms* and cannot be justified in a society dedicated to the promotion and protection of universal equality. As the definition of 'identifiable group' in the *Criminal Code* provisions regarding hate propaganda does not include gender, women are specifically excluded from the protection offered by the legislation. As a result, those who communicate and incite hatred against women cannot currently be prosecuted for their actions."

That situation is very damaging to women and cannot be allowed to continue. The Supreme Court also said, "It is indisputable that the emotional damage caused by words may be of grave psychological and social consequence."⁹ That is as true for women as any other group in Canada, and it's time politicians from all parties acknowledged that fact and acted on it.

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

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Background: Attached are comments made in the House of Commons by MP Borys Wrzesnewskij. Bill C-254 is posted at http://www.fradical.com/Bill_C-254_add_women_to_hate_propaganda_law.htm. Additional information on women and hate propaganda, including the brief sent to Finance Minister James Flaherty, is posted at http://www.fradical.com/Hate_Propaganda.htm.

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 fifteen 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.

⁹ R v. Keegstra, Supreme Court of Canada, 1990

Backgrounder

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.



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C-254

First Session, Thirty-ninth Parliament,
55 Elizabeth II, 2006

HOUSE OF COMMONS OF CANADA

BILL C-254

An Act to amend the Criminal Code (hate propaganda)

FIRST READING, MAY 4, 2006

MR. WRZESNEWSKYJ

391198

C-254

Première session, trente-neuvième législature,
55 Elizabeth II, 2006

CHAMBRE DES COMMUNES DU CANADA

PROJET DE LOI C-254

Loi modifiant le Code criminel (propagande haineuse)

PREMIÈRE LECTURE LE 4 MAI 2006

M. WRZESNEWSKYJ

SUMMARY

This enactment expands the definition of “identifiable group” in relation to hate propaganda in the *Criminal Code* to include any section of the public distinguished by its sex.

SOMMAIRE

Le texte modifie la définition de « groupe identifiable » concernant la q propagande haineuse dans le *Code criminel* pour y inclure toute section du : différencie des autres par le sexe.

Also available on the Parliament of Canada Web Site at the following address:
<http://www.parl.gc.ca>

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<http://www.parl.gc.ca>

1st Session, 39th Parliament,
55 Elizabeth II, 2006

1^{re} session, 39^e législature,
55 Elizabeth II, 2006

HOUSE OF COMMONS OF CANADA

CHAMBRE DES COMMUNES DU CANADA

BILL C-254

PROJET DE LOI C-254

R.S., c. C-46

An Act to amend the Criminal Code (hate propaganda)
Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:

Loi modifiant le Code criminel (propagande haineuse)
Sa Majesté, sur l'avis et avec le consentement du Sénat L.R., ch. et de la Chambre des communes du Canada, édicte :

1. Subsection 318(4) of the *Criminal Code* is replaced by the following:

1. Le paragraphe 318(4) du *Code criminel* est remplacé par ce qui suit :

Definition of
“identifiable group”

(4) In this section, “identifiable group” means any section of the public distinguished by colour, race, religion, ethnic origin, sex or sexual orientation.

(4) Au présent article, « groupe identifia- ble » désigne Définitio toute section du public qui se différencie des autres par la couleur, la race, la religion, l'origine ethnique, le sexe ou l'orien- tation sexuelle. identifiat

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