THE LAW UNION NEWS

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Kaplan creates monster

By Andy King

The proposed Security Bill — presently known as Bill C-157 — creating a civilian security service to investigate "subversives" and their activity has received considerable attention since it was first tabled by Solicitor General Kaplan earlier this year. The attempt to set up a civilian agency to carry out extensive investigation, reporting, analysis and harassment of dissidents is now before a Senate subcommittee and we witness a steady stream of notable personages including not just the usual radical left such as Civil Liberties Associations, the New Democratic Party, etc., but also such notable defenders of our rights and freedoms as Roy McMurtry, Attorney General of Ontario and Warren Allmand, former Liberal cabinet minister, parading before the committee complaining of the incredible breadth of legitimization of state intervention in the political activities of the populace the bill creates.

Without dwelling on the individual sections of the proposed legislation, it behooves us to comment on some of its salient features and goals.

Firstly, we are aware that this new bill does not herald the beginning of greater state involvement. We know all too well the extent to which the government through its various police forces is involved in surveillance and disruption of political activity which it perceives to be contrary to its interests. The past and present litany of complaints against the RCMP security service, so tastefully exposed and yet covered up by the McDonald Commission, bears testament to this. More recently we have had increased surveillance of peace activists, union activists, gays, and others by RCMP and local police. We might think it would have something to do with investigation of criminal activities such as the bombing at Litton Industries, or violence on picket lines or violation of laws restricting abortions, but when we look closely at what the police have done, the reasons they have and the timing of their actions, we can only conclude that the goal is to prevent growing opposition to the governing class's plans regarding nuclear weapons, economic recovery, and stifling generally any struggle against repression in Canada. What the Security Bill attempts to do is (1) "legalize" the activity so that the courts cannot interfere; (2) prevent any disclosure of these activities through Parliament or any other institution by making the service a closed-door operation from which even the Minister cannot get information (hear no evil, see no evil, speak no evil, the monkey says); (3) centralize the activity under federal control as much as possible to give the feds an extra wea-

continued on page 2

The battle for choice

By Mary Lou Fassel

The years 1982 and '83 have seen a mobilization of Toronto women which is unprecedented in this city's history. It is not surprising that the issue that has again so suddenly attached itself to our political consciousness is the issue of reproductive rights and its corollary, the legalization of free-standing abortion clinics.

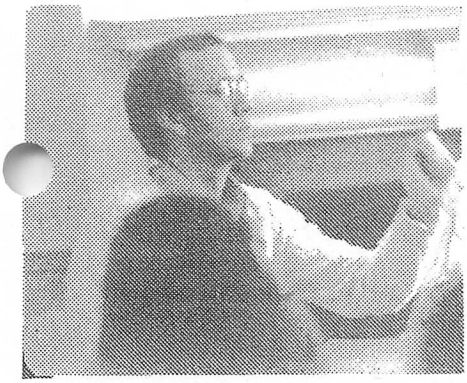
It is not an entirely new issue. The events of the recent past have been part of movement that has been going on in this city and country for generations. Whether the particular issue was access to contraception in pre-1969 Canada, or access to abortion more recently, those involved in women's struggles have always had a keen recognition of the central part played by the issue of *reproductive freedom* in the greater movement for liberation.

There are no doubt many reasons why this issue has come to the fore again in the past twelve months. Perhaps it is just a part of the much larger grass-roots women's movement in Canada and the United States towards freedom and equality. Perhaps it is in part a reaction to the economic times and the corresponding attempts by the right to put a stranglehold on programs and policies directed toward the most disadvantaged in our society. Perhaps also we have been inspired by Dr. Henry Morgentaler, who, for whatever personal or political reasons of his own, has chosen this point in time to test the criminal law in Ontario and Manitoba as he has already tested it in Quebec. It is also, doubtless, fair to say that Dr. Morgentaler himself has been encouraged to action, not only by his three legal victories in the courts of Quebec, but also by the existence in Toronto of a deeply committed and well-organized network of women's groups ready and able to mobilize the political support needed.

Whatever the reasons for the recent mobilization, we are now fully engaged in the abortion battle and, if we can trust all of the traditional indicators of public opinion, we are winning.

The question at this point in the struggle is whether the widespread and increasing public support of a woman's right to choose can be translated into a legal victory for Henry Morgentaler in his two upcoming October trials in Toronto and Winnipeg. Naturally, even if we lose in the courtroom, the battle will not end there; it is only a

continued on page 4



Charter Chatter

Some Charter fans expressed quiet satisfaction for the fall season's accomplishments. "A slow start", said one, "but not disappointing. Nobody expected the Criminal Code to be stood on its head." But a leading professorial cynic told this reporter, "Bah! Humbug! illusions of justice — illusions only!"

Law Union veteran Bobby Kellerman scored an easy but satisfying victory over political paranoia on behalf of anti-nuke, anti-Litton picketer David Collins. Bracebridge Judge Stan Hogg, back in Hogtown on a busman's holiday, granted Kellerman's application for a review of bail conditions that prohibited Collins from advocating anti-Litton pickets or even associating with his fellow protesters. Hurrah for entrenched free speech! But to be fair, Mr. Justice Grange had come close to saying the same in R v. Francis (unreported), a pre-Charter case.

The most detailed reasoning so far reported on the difficult questions under sec. 1 regarding "reasonable restrictions" on fundamental freedoms have been those of Chief Justice Deschennes in his review of Quebec school languages legislation. He struck down Quebec law requiring French language education as inconsistent with sec. 23 of the Charter. He held that the complete burden of proving an exception under sec. 1 rests on the party claiming its benefit. Further, he ruled that the objectives of the legislation were legitimate but nevertheless the actual requirements of the Act (Bill 101) were unreasonable. "Unreasonable" was held to be conduct which "no sensible authority acting with due appreciation of its responsibilities would have decided to adopt."

Reverse onus cases were hot all summer and fall. In the leading case — so far — Judge Graburn of the York County bench held in *R v. Minardo* that the presumption in possession for the purposes of trafficking in sec. 8 of the *Narcotics Control Act* violated the Charter provisions of the presumption of innocence. There was a similar ruling in *R v. Holmes* 380R (2d) 290 by His Honour Judge Clement regarding sec. 309(1) of the Criminal Code. That section says that possession of burglar tools gives rise to the presumption of use. It remains to be seen whether the appeal Courts uphold this general approach.

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Law Union News

The News exists to provide a forum for members for their opinions, for reports on the various activities sponsored or supported by the Law Union and reports on other activities which are of interest to the Law Union.

You can participate by sending articles c/o Law Union address or by calling members of the Law Union collective with news. You need not write yourself, if you don't have time. If you are doing something that you think might be of interest, call. Photographs or comics are welcome. If you are not sure who to call or where, contact Andrew King at 598-0103.

Health and Safety News

The committee hearings on the government proposal for reforms of workers compensation in Ontario has not reconvened since it was unceremoniously stalled in September by Bill Davis' rush to impose wage restraints on public sector workers. Word at the time was that it would reconvene in February 1983. Word now is, don't hold your breath.

The Law Union's Collective on Workers' Compensation (which *does* meet regularly, friends — a fact which was overlooked at the Conference) is hard at work on a number of projects. Of major significance is an ongoing study of methods of getting around the Workmen's Compensation legislation and suing employers directly. The next meeting on February 3, 1983, will deal extensively with this issue. For further information call Alec Farquhar at 651-5650. Another project has been discovery of Workmen's Compensation Board policies which are not published in the manuals. Of particular interest, we would like to see the internal policy on Weiler's proposed changes.

The Association of Injured Workers Groups (made up of Injured Workers Consultants, Industrial Accident Victims Group of Ontario, the Union of Injured Workers and others) organized a rotating picket outside Queen's Park every Tuesday and Thursday from November 16 to December 9, 1982. The action was to protest the lack of activity by government to improve injured workers' plight. The major demand was for cost of living increases. The Minister announced cost of living changes December 10, 1982.

A Health and Safety Defence Fund has been set up by activists in Hamilton to support efforts by workers to enforce health and safety legislation. The fund is soliciting financial support. The Fund can be reached c/o Henry Miedas, 74 East 18th Street, Hamilton, Ontario L9A 4N8 or phone Alec Farquhar for more information.

Finally, the Court of Appeal recently upheld a fine of $12,000.00 against a company for health and safety violations. The case is *R v. Cotton Felts Ltd.* and it appears to be a first for the Appelate Courts on the question of sentencing. At last recognition that these fines are not simply a licence to maime and dismember.