

Porn ruling is 'historic'

□ Groups say decision helps define controversial issue

By Patrick Tivy
(Herald writer and Southam News)

A ruling on sex and pornography issued by the Supreme Court of Canada Thursday will affect women's rights across the country and around the globe, said a Calgary lawyer involved in the landmark case.

And it gives Canadians on all sides of the issue a clearer definition of what constitutes pornography.

"This is a world historic case. Violence against women is not a Canadian issue, it's a global issue," said Kathleen Mahoney, who addressed the court last summer in the case of a Winnipeg video dealer charged under the pornography section of the Criminal Code.

Thursday's high court ruling on that case said the Charter of Rights and Freedoms can't be used to defend pornographic magazines and videos that portray explicit sex with violence or human degradation. However, portrayals of explicit sex with consenting adults are lawful, the judges said.

The new ruling should make it easier for police to get convictions, and for magazine and video dealers to stock clearly legal material. Women's groups hailed the decision, but a civil libertarian wondered what effect it might have on artists and authors.

In Ottawa, Justice Minister Kim Campbell welcomed the ruling. "This decision by the court has been enormously helpful in clarifying the jurisprudence relating to the definition of obscenity."

But Campbell added she intends to introduce a new law this year specifically dealing with child pornography.

Police in Calgary and across the

country have had difficulty tackling pornography cases because of the vagueness of the existing law.

Pat Sawatsky, a representative for the Alberta Coalition Against Pornography, said some local video shops stock material that is "incredibly negative toward women" and fit the court's more precise new definition of pornography.

Mahoney said her presentation to the court last summer — made on behalf of the Legal Education and Action Fund — included a precise analysis of the 76 videos that were found on the premises of a Winnipeg video shop. "We watched every single one," she said.

The videos contained dozens of scenes of violence and degradation, including many scenes of naked women in handcuffs and chains. "We're not talking about soft-focus nudes here," she said.

Calgary lawyer Brian Edy, a director of both the Alberta Civil Liberties Association and the Canadian Civil Liberties Association, cautioned, "This is judge-made law. We would have preferred to have a statute that spelled out the limits. Give us an amendment to the Criminal Code."

The court ordered a new trial for the Winnipeg dealer, ruling the man would not necessarily be convicted on all charges based on the new obscenity guidelines.

In summary, the ruling:

- Prohibits portrayal of sex coupled with violence in almost all cases.
- Prohibits portrayal of most forms of explicit sex which is degrading or dehumanizing. It's illegal to distribute such material if it could cause harm.
- Prohibits depiction of sex involving children.
- Allows explicit sex without violence so long as children aren't involved.
- Allows explicit material with scientific, artistic or literary merit.