

*Hate Propaganda*

There are members who are listening to me now in this House who know nothing of the contents of this bill. There is where I find fault with the new committee system.

Let me now come to the second point I want to make with reference to the constitutionality of the bill itself. Before I do that there is perhaps another point I should make. I want to go along with what the minister is recorded as having said at page 5552 of *Hansard* for Monday, April 6. He said:

It purports, on the face of it, to eliminate a few lines of the bill. But what it does is truncate and absolutely vitiate the bill, and if adopted by the House would kill the bill. I do not think we can prevaricate about that. That is exactly what it will do.

He was referring to the purpose of the amendment. In that regard the minister and I are on fair, square and just grounds. He is correct.

I want to refer specifically to one member but I cannot refer to how all members voted individually. In any event, anybody on the government side who voted against the amendment and then spoke from the other side of his mouth against the bill cannot really justify his position. He has either done so from a lack of knowledge of the bill because of the trouble I mentioned earlier of not being a member of the committee, or perhaps because he has some problems at home in his constituency. I leave that for his judgment, not mine.

Let us get down to the constitutionality of the bill. I say at the outset with the greatest of respect, and I should like to have more time to discuss this, I believe this bill is unconstitutional. It is unconstitutional because it goes to the very roots of our freedoms. What are some of our freedoms? I think they have to be repeated, just briefly.

Let me refer to the Supreme Court of Canada decision in the famous Alberta statute case when the late Mr. Aberhart, the former premier of Alberta, was introducing censorship of the press. This was not Information Canada, it was censorship. He wanted the newspapers to write what he wanted to read, not what they were writing. At that time they were drawing some pretty horrible cartoons of that particular individual. He was inciting the people against the depression, against unemployment and against economics. Mr. Aberhart would never have survived under the hate literature bill, not if any attorney general was doing his job. Anyhow, he brought in censorship of the press.

What the Supreme Court of Canada said in that case, and I have not time to go into it in detail, was very simple. The judges of the Supreme Court, as I understand them, said that they looked at the preamble of the BNA act and came to the conclusion that there were certain inalienable rights there for the protection of individuals. They said that the British had developed these over a thousand years because the customs of the Anglo-Saxons became crystallized into traditions; the traditions in turn became crystallized into common law, and the common law was interpreted by the courts. This was the basis of the common law in our written statutes, and all of it protected the rights of the individual. They made reference to the Magna Carta, and various other acts. As I understand it this was supported by Professor Tarnopolsky. So, the Supreme Court of Canada came to the conclusion that the preamble of the BNA act had built more than just a little house.

The Supreme Court judges said that all the rights our forefathers fought for, died for and worked for, were protected, and included in the BNA act. They suggested in that famous case, which was the start of the constitutional interpretation, that these rights were in the BNA act and if any act infringed upon them then such act, whether it was passed by this place or a legislature, would be *ultra vires*. There was a reference to the right of the individual to life. That has reference to genocide and although I suggested taking that part out of the bill, I can see some weaknesses in the Code. I have never been impressed with the idea that we need any part of this bill. We have these rights of liberty and security of person and of property.

A boy or girl who sets out for school from his father and mother's home and gets to school safe and sound does not do so because of the Prime Minister here or the premier of his province. The accomplishment is based on the fundamental rule of law which is based on the common law I discussed. These inalienable rights are spelled out in the unwritten portion of our constitution and in the British North America Act. We have now set up a very fine committee to study the constitution.

When the Supreme Court of Canada decided that first case in reference to the Aberhart law it said, as the right hon. gentleman from Prince Albert (Mr. Diefenbaker) later stated in the Bill of Rights, that there was inherent the right to life, the right to individual equality, freedom of religion and freedom of speech. How can you have freedom of speech