

*Hate Propaganda*

for York South (Mr. Lewis). I think that no civilized person would condone the wilful promotion of hatred against an identifiable group, no matter what form that promotion takes, but there is something to be said for leaving the condemnation of such conduct in private conversation to the ordinary social sanctions of the community rather than to the sanctions of the criminal law, and I am confident that the determination of what constitutes a private conversation can well be left to the sound sense of a judge and, in proceedings by indictment, a jury.

In section 267B hon. members will notice a new subsection 3. The defences provided under the original subsection 3 have been revised and an additional defence has been provided by paragraph (d). This entire subsection was proposed by the hon. member for Sault Ste. Marie (Mr. Murphy) and accepted, I believe, virtually unanimously by the committee.

There are two other substantial amendments. There is an addition of a new subsection, 267B(5), added to make it clear that the forfeiture provision in subsection 4 of this section does not apply to communication facilities. You can seize the telephone for the purposes of evidence, but you cannot seize the telephone merely because it has been used to communicate a statement. Finally, there was a technical change made in the *in rem* proceedings, as they are known, dealing with the seizure of property under section 267C(8) (c).

I think the House should review at this stage the defences that were added by the Standing Committee on Justice and Legal Affairs, and that were rendered more precise, because in analysing this bill those who oppose it have failed to illustrate and emphasize to the House the defences that are available to an individual citizen and his free exercise of speech. These defences are set out in section 267B(3), with regard to the offence of the wilful promotion of hatred. First, no person shall be convicted "if he establishes that the statements communicated were true." Further, no person shall be convicted "if, in good faith, he expressed or attempted to establish by argument an opinion upon a religious subject." Therefore, any bona fide, far-ranging expression of opinion on any religious subject is sufficient to take that statement outside the purview of this bill.

**Mr. Woolliams:** How would you establish the truth of a religious statement?

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**Mr. Turner (Ottawa-Carleton):** Thirdly, no person shall be convicted "if the statements were relevant to any subject of public interest, the discussion of which was for the public benefit, and if on reasonable grounds he believed them to be true." If the statement were made in the course of debate or in the course of discussion the basis of which was for the public benefit because it involved discussion of public affairs, if it was a subject of public interest, if the statement were made in the reasonable belief that it was true even if it were not true, that amendment provides, as in an ordinary libel action, a complete defence to any prosecution under the offence of wilful promotion of hatred.

• (9:10 p.m.)

Finally, there was a new defence added at the instance of the hon. member for Sault Ste. Marie. If in good faith a person intended to point out, for the purpose of removal, matters producing or tending to produce feelings of hatred toward an identifiable group in Canada, if the purpose of the statement or communication was to attempt to persuade his fellow citizens to remove the cause of that hatred or dissension, he has a defence. The situation the hon. member for Calgary North was talking about in his speech this evening in defence of his own amendment is now eliminated, that argument having been made by members of the committee and now rendered needless by the addition of the fourth defence in paragraph (d). If the Indian population in Alberta, to which he referred, feels it has a grievance against the white man in Alberta or in Canada, if it states this grievance for the purpose of removing the reason for the grievance there is, I would submit, a defence under this subsection.

Then there is the added protection in those two offences relating to genocide in section 267A, and the wilful promotion of hatred in 267B(2), there is the precaution of requiring that no proceeding can be taken under either of those offences without the consent of the provincial Attorney General. That restriction is not placed upon the second offence of public incitement of hatred and contempt likely to lead to a breach of the peace. Where a breach of the peace is involved obviously you have a potential unlawful assembly or a potential riot, and you have no time to try to get the consent of the Attorney General of the province before making an arrest.

In the offence of advocating or promoting genocide, in the offence of the wilful promo-