

parently has now renounced his past conduct; and a man named Beattie, whose publicity-seeking actions in Toronto centred around Allen Gardens Park.

In summary, honourable senators, we have seven known pamphlets that have been published and circulated to some extent in Canada and we have three bigots. That is all there is, from a population of over 20 million souls. Yet, we are urged that this legislation is necessary. I would remind all honourable senators of the words of William Pitt who, in 1738, as Prime Minister of England spoke these words in the House of Commons:

Necessity is the plea for every infringement of human freedom. It is the argument of tyrants, it is the creed of slaves.

Now, honourable senators, one might suggest that, even though this legislation be unnecessary if my thesis is correct, it will give comfort to certain groups within the community, so why not pass it in any event. I for one would be perfectly prepared to go along with that if legislation could be framed to deal specifically with the few, specific, obnoxious and detestable organizations and people I have just mentioned. However, the bill before us, while attempting to do just that, creates the vague and indefinite crime of promoting hatred or contempt, and this brings me to my second reason for objection.

In my opinion that quality of vagueness to the proposed crime can imperil the tradition of our freedom of speech in Canada—a freedom so basic to our life that it is declared a fundamental freedom and is set out in our Bill of Rights. I fear that it is the failure to recognize the nature and extent of this peril that has escaped the proponents of this legislation. However, I must say that it was recognized by your committee, and I want to commend its Chairman for the safeguards that he and his committee have attempted to impose through the amendments presented here tonight. Among the most significant of the amendments is the one requiring that any prosecution first must receive the consent of the Attorney General.

We in Canada prefer to live under a rule of law rather than under a rule of officials, but, honourable senators, if criminal law, potentially capable of such grave abuse as this is capable of, comes on to our statute books, we need such drastic and restrictive protection. The exemption afforded by amendment to protect in some cases opinions expressed in good faith and in decent language on religious

subjects is also welcomed. However, I cannot help but be dismayed that today in Canada we should have to spell out in a statute that expressions in good faith and in decent language on religious subjects do not constitute a criminal offence. That, honourable senators, is what we are doing in this bill.

Notwithstanding these beneficial amendments, my fear of and objections to this bill remain. I ask what good, what fair, what honest opinions might by some be considered as promoting hatred or contempt? I do not know. The vague, inclusive breadth of the proposed offence of promoting hatred or contempt of an identifiable group is absolutely frightening.

What innocent person facing a hostile mob might be arrested under section 267B (1)? I do not know. However, one might be arrested, because of the hostile mob and the likelihood of a breach of the peace, and, if his statements were considered by some judge or magistrate to be inciting contempt of a group, then that man would be guilty. The defence that he was attempting to establish in good faith and in decent language an opinion on a religious subject is of no avail to this man. That exempting provision only applies to the next section of the bill.

To a charge under subsection 2, no matter what the subject matter is of the statements by this man, be it political, religious or otherwise, none of these defences provided under that subsection are available to him. Neither the truth, the relevance of public interest nor belief in their truth is germane. This man may be arrested, but the rioting mob may go unmolested.

Honourable senators, I ask what persons might be convicted under subsection 2 for expressing honest opinions in their own homes? In their own homes! I do not know. The only protection they would have would be if they were on subjects of religion. On any other subjects some persons might be arrested for something they had said in their own homes and could be convicted, if, in the opinion of a magistrate, their expressions promoted hatred or contempt of a group. Their only hope would be in their ability to discharge the onus of proving the truth of their opinions—and I do not know how relevant truth is to opinions—or that they were of public interest and the discussion was for the public benefit, and that they believed them to be true. Those latter three defences are joined together by the conjunction “and,” which means that they all have to be proved.