

*Hate Propaganda*

advocates genocide, which I agree is a terribly reprehensible thing to do, that person can be guilty of the offence no matter when, where or under what circumstances it took place, even in the privacy of his own home in the presence of two people. If he advocates or promotes genocide, he will be guilty of an offence and liable to imprisonment of up to five years. There is no option of the summary conviction proceedings which appear with respect to the other two offences.

As far as I am concerned, people who make statements in public that incite hatred against ethnic groups which bring about breaches of the peace, or people who wilfully promote hatred in public or advocate genocide in public, should definitely be held accountable in the criminal courts. I agree that these should be offences, but I cannot see why the genocide provisions should be singled out as being so much more reprehensible than the other two offences.

It could be said that the concept of genocide carries with it a greater degree of culpability because it relates to the destruction of the whole ethnic group or puts that group into a situation where its physical destruction is inevitable. In contrast with that, who in Canada today is going to take the advocacy of such a proposition seriously? In addition, it is extremely unlikely that a person who makes statements of this nature, even in the privacy of his own home or in the privacy of another person's home, is going to be taken seriously and is going to do the public any serious harm.

I suggest there is no real need for the criminal law to so restrict our freedom of speech that it will be an offence punishable by five years' imprisonment when somebody in the heat of an argument, possibly after a few drinks and perhaps a little obsessed, makes such a reprehensible a statement as the advocacy of genocide. Nobody is going to take such a statement seriously. As far as I can see, such instances would occur so rarely that they would hardly be worthy of any consideration from the point of view of the criminal law.

I admit such contentions, if they are put forward publicly, should be offences. I say that because the essence of the criminal law is to prevent harm and maintain social order. If statements of this nature are made in public, it is obvious the person intends that the public react to them and that he intends to promote what he has said. I cannot see how

it can be so terribly reprehensible if such statements are made in a heated debate during a private conversation.

Certain members of the committee criticized the suggestions I am putting forward. It was said in committee that the concept of genocide is so reprehensible in any context whatever that it has absolutely no redeeming social value and it should not be permitted to be advocated by anyone under any circumstances. I agree with the point of view that it has absolutely no redeeming social value. There is no one in this chamber who would disagree with that point of view, but is that the criterion by which we are to establish criminal law? Is it because it has no redeeming social value that we should make it an offence? The only time it should be made an offence is when there is a clear and present danger to an ethnic group or any one or more members of the public.

I do not agree with the contention that the criminal law should be used to educate the public. The criminal law should be used to protect the public from harm where there is a clear and present danger that such harm exists or might come about. The basis of this bill is the report of the Special Committee on Hate Propaganda in Canada. Certain eminent members of this House were members of that committee. I do not think that they ever intended that the advocacy of genocide should be made an offence when it occurs in a private conversation. It is stated at page 62 of the report that:

It would be an emphatic public declaration of our total commitment to the elimination of this most inhuman manifestation of prejudice and a reassurance to any minority groups in our midst that—

These are the important words:

—promoting such a concept in public discussion is beyond the pale. At the same time it would be one more potent instrument in the education of the people of Canada as to the awful consequences of racism and prejudice.

At page 63 the report reads:

There is, therefore, no ambiguity and no begging of the question in the stand we take namely, that any form of advocacy or promotion of genocide is outside the bounds of legitimate public discussion.

Even though in the final recommendations of the committee they do not distinguish between private and public conversations, it is my contention that the committee was clearly concerned with the advocacy of genocide in public, and the prevention of the harm that could possibly accrue if such a course were followed among the people of our community.