

**Mr. Hayes:** I would like to add a few points to this discussion.

We were taught in our cultures that in the protection of the individual, group rights were not really part of the established background.

Over the last 35 years, the concept of rights of groups has become a dominant feature of western society. What we must do, in this electronic age is try to bridge that gap, that background particularly of those over the age of 50, that background in which we were brought up, in which there was protection only for individual rights. We have to look at the twentieth century, and in the western world particularly, where groups have protection and groups are demanding protection and groups make appeals for protection. This is a philosophy that I think is encompassing the whole western world.

In other levels, you got it, anyway. Again, to Senator Choquette, the French Canadian group and the cultural and linguistic groups are not asking for any individual rights, but they are asking for rights as a group.

Although this sounds dogmatic, it is a suggestion—that you must transfer that doctrine and that thinking of society now, to the groups, as society is composed of groups and one has to try to bridge that gap.

**Senator Choquette:** As far as the word "religion" is included in that, my friend Senator Roebuck will tell you that I spoke on the hate literature bill in the Senate and I was one of those who insisted, and still insist, that the word "religion" be put in there, as an identifiable group.

**Senator Roebuck:** And my answer to your suggestion was that we leave it to the discussion which is taking place today, and not try to define words and that sort of thing, in the general debate that was going on at that time. So we are under an obligation now to consider this question, whether we put "religion" back in the bill.

**Senator Carter:** I would like to follow up just one more of my original questions. I gather from Mr. Herman's reply, that this bill would do some good, because it would create a climate where it would be educational and would create an atmosphere where at least these types of incidents would not occur. But the need of this bill, as I understand it, is given in the operating clause. In the case of a disturbance having occurred, what protection would you then have, as a group?

**Mr. Herman:** We have this protection, that the person or persons who created the disturbance would be punished, if on trial they were found to have created that disturbance. We have provisions in the Criminal Code against theft. That does not stop theft. The thefts do take place, but when they take place, whoever commits them is punished for that breach. So it serves two purposes, it punishes him and also discourages him from doing it again.

**The Chairman:** May I point out to Senator Carter that section 267B(1) creates an offence of communicating statements in a public place, inciting to hatred or contempt against an identifiable group, where such incitement is likely to lead to a breach of the peace.

But subsection (2) provides that everyone who by communicating statements, wilfully promotes hatred or contempt against a group. Now, there are two separate offences there and I think it is important that you should keep this in mind, in this discussion. One is the incitement, where it is intended to incite a breach of the peace. A legal breach of the peace is one offence. But the mere advocating or wilfully inciting hatred or contempt is a separate offence.

**Senator Carter:** My point was that in each case it must be against an identifiable group.

**The Chairman:** That is correct.

**Senator Carter:** And can this group identify itself under this particular legislation? That is the point.

**Mr. Geller:** To speak to that point we are concerned with, under the bill as drafted, the word "religion" is left out of the definition section dealing with identifiable groups. On account of that, the Jewish group as such, of the nature that Mr. Herman has pointed out, might not be caught. That is why we are respectfully suggesting to you, sirs, that the definition should be amplified to include that word, as originally suggested in the report of the Special Committee.

We are not able to say that the bill as drafted would not protect this group: we are concerned that it might not; and we feel that the possible difficulty could be removed at this stage.

**The Chairman:** May I ask a question, for clarification purposes, from these gentlemen who have given this a great deal of thought.