

*Hate Propaganda*

tee, and also in his projection of the application of this law. First as to his philosophy, the hon. member believes that in all cases we should apply the clear and present danger test which was developed in the United States by the great judge, Mr. Justice Holmes. That test, Mr. Speaker, is intended to apply to situations in which there is redeeming social value in the conduct which is in question.

I would submit to members of this House, and in particular to my colleague from New Westminster, that there are certain things which are not within the pale of argument one way or the other. At one end of the spectrum we have the internal freedom of conscience which everyone has. This surely is not subject to any kind of government direction. At the other end we have the belief in, the advocacy, and the promotion of mass murder. That is something at the other extreme in which there is no social value. It is not something about which we can say, "Yes, if we do not have discussion on this, all kinds of undesirable social consequences will follow."

The Cohen Committee agreed, and rightly so, that there is a social interest in allowing discussion of revolution, discussion of overthrowing the government, discussion of all kinds of political questions. But when it comes to a question of solving the political problems of this day by the use of mass murder, by eliminating your opponents, this is surely something in which there is no true interest on the part of society; and if there is no interest on the part of society, then there is no reason that it should be tolerated in a free society.

My colleague from Okanagan Boundary has said that the circumstances in which a person might be convicted could be mild. He used the word mild several times. I suggest he could take that view only if he were concentrating on the words of the formula, and not on the terrible examples of mass murder committed in this century and which could be promoted and advocated here in this country.

Now, with respect to the analysis of the Cohen Report presented by my colleague from New Westminster I can say, I believe without breaking the confidences of the committee, that I wrote the words which were subsequently adopted by the committee and which he has quoted to the House. I would suggest to him that, as the Minister of Justice (Mr. Turner) has pointed out, he ought to go farther.

[Mr. MacGuigan.]

After the quotations from the report which we have had presented by the hon. member, these sentences occur in the report:

In our opinion there is no need for any exempting clause in the application of legislation against advocacy of genocide, because there is no social interest in protecting any variety of such advocacy. The prohibition should be absolute because the act is wrong absolutely, i.e., in all circumstances, degrees, times, and ways.

This is the last statement which the committee makes on this subject in its analysis of the situation and its proposals for new legislation. It is true that earlier the word 'public' was used as a part of the rhetoric of the report, because that, of course, is obviously where the most serious danger lies, but the fact is the committee concluded by arguing for the prohibition of the advocacy of genocide "in all circumstances, degrees, times, and ways."

Finally, Mr. Speaker, I believe that my colleague is wrong in his suggestion as to the possible application which this section might have. He has what I might call the "passing moment" conception of the application of this section. He says that a man may be sitting in his living room with his children gathered around him. He may be in his cups and toss off some of these phrases. I say that this is not the kind of situation in which a conviction could occur.

The Minister of Justice has already pointed out that the words here are "advocate or promote." There is no possibility of a man being convicted, be he in his cups or out of his cups, unless he expresses these views in such a way, and believes in them in such a way, that he could be said to be advocating or promoting this most horrible deed. And if he is doing this why should he be exempted? Why should there be any exemption? There is no social interest in it.

What is the interest which the hon. member has suggested? The interest in protection from extortion. This, I believe, is the sole danger which can lie in such legislation, and this is a general problem with the criminal law. I am sure my colleague would argue that it is more dangerous in a situation such as this, but I would suggest to him that this is surely the kind of case in which not only would a prosecutor and a court be careful, but it is also one of the few cases in the law where prosecution is subject to the express approval of the Attorney General.

Obviously, there are safeguards in this legislation. We have, of course, the normal safeguards we generally trust in our society,