

CRIMINAL CODE (HATE PROPAGANDA)**BILL TO AMEND—SECOND READING—
DEBATE CONTINUED**

The Senate resumed from yesterday the adjourned debate on the motion of Hon. Mr. Roebuck for the second reading of Bill S-49, to amend the Criminal Code.

Hon. Salter A. Hayden: Honourable senators, there has been already a fair amount of serious and interesting debate on this bill. We have heard from those who support the bill in the form in which it is now before us, and those who suggest that however meritorious the bill may be, its provisions are unnecessary having regard to the state of our law at the present time. Some honourable senators have said that this is a bill which proposes to make law certain provisions for dealing with situations with which we in Canada are entirely unfamiliar—situations which have not occurred in Canada.

I propose to develop that point as I go along, but my first observation is that the provisions with respect to genocide should not appear in this bill. That is my firm belief.

In that connection I would refer you to the British legislation which was enacted in 1965, entitled the Race Relations Act 1965, over 50 per cent of which deals with discrimination as to race, colour and so on exercised by the proprietor or manager of a hotel, lodging place or eating place, and also discrimination in property restrictions and matters of that kind. Provisions as to discrimination are already contained in the laws of most, if not all, of our provincial jurisdictions, because the province is the authority primarily that must deal with such matters.

The other part of the English act concerns questions of public order. It makes it an offence for any person, with intent to stir up hatred against any section of the public in Great Britain distinguished by colour, race or ethnic or national origin, to publish or distribute written matter, et cetera. It also makes it an offence to utter words which are likely to stir up hatred against any section on the grounds of colour, race or ethnic or national origin. This portion of the English legislation is based on breach of the peace.

Honourable senators will recall the experiences in England over the last few years when there were serious race riots in various parts of the country. It was my experience about eighteen months ago to pass through a city the day after one of those race riots had occurred.

The knowledge of what was going on gave me an awesome kind of feeling. I had the feeling that I was moving through an armed camp, and I did not know which side might jump on me. I made sure that I got through that city as quickly as I could. But there was an immediate purpose to be served by the creation of this offence in England. It is a breach of the peace if you stir up hatred against any section of the public which is distinguished by the characteristics to which I have referred. We do not have that situation in Canada, and this makes it more difficult to come to grips with the necessity of providing specifically in legislation for it.

I want to say something further about the genocide provision. As I said, I think it has no place in this bill. We do not need it because we have had no situation of that kind. I can understand the feelings of those who are supporting this bill, because they remember the horrors and atrocities in Europe during the period of the last war, when millions of people were enslaved and put to death, their only crime being that they wore a particular badge of race which conflicted with the mass psychology of the people and the rulers in the country at that time.

However, when we are thinking about the effectiveness of the provision of genocide in the bill, I would suggest that even if one assumed that this bill had been passed and became law in all the countries of Europe immediately prior to the outbreak of World War II, the measure would have accomplished nothing in the way of preventing what actually happened. What happened occurred in spite of and without any regard to what the law might or should have been, and without any regard for principles of morality or the humanities. It was simply a case of a ruling class taking the law unto itself. There is no way in legislation of preventing the occurrence that sort of thing.

I think the proper place to deal with genocide is where it already has been dealt with, that is, in the United Nations. Basically, the question of genocide becomes one of international law, and the United Nations has a convention on the prevention and punishment of the crime of genocide. That convention was adopted by the General Assembly of the United Nations in December 1948, and came into force in January 1951, when the required number of countries filed their ratifications. Article I states:

The Contracting Parties confirm that genocide, whether committed in time of peace or in time of war, is a crime under