

minute he will realize that that is all wrong. This Bill contains a whole gamut of provisions. I will deal with none except those affecting section 98. No such Bill as this affecting section 98 was ever presented here. This Bill repeals section 98, it is true, but in another section it restores section 98, or the full effect of it, after the repeal. To certain persons, some of them well-intentioned, but principally to the Communists whose votes it was necessary to secure by a promise of the repeal of section 98, the Government by this Bill gives the repeal with one hand, and from them it takes it back with the other.

I do not think the law will be in as good form after this Bill passes as it is now. I do not mean that afterwards anybody can do something forbidden under the present law. I cannot think of anything he could do then that he was forbidden to do before. I do not say there is no change. There is a change in respect of seizure, but that is a mere incident of the section. One would think this was the only place in the whole Criminal Code where drastic power is given with respect to seizure. There are other sections, dealing with seizure in gaming and bawdy houses and other places. But seizure is not essential to the wording of this section, and the same seizure rule might as well be adopted here as in respect to other offences against the Code. In that respect only is there any essential difference, save that under the law as it will be, everything will be forbidden, but forbidden in such a way that people will not so easily understand the prohibition. In section 98 what is forbidden is made definite and clear, so that any magistrate may know what it means. Under this Bill it is made general, less easily understood and applied; it is thrown back, in considerable measure, on the common law.

Let me develop the subject a little further. Section 98 makes it an offence to be a member of an unlawful association, and an unlawful association is one which professes as its principal teaching the overthrow of the governmental or economic or industrial system by force. To be a member of it is deemed to be an offence. I wonder if the member is thus being punished for opinions. Is it not for expression of opinions to the detriment of the State? A body is formed, and it professes a certain purpose which it is determined to effect, and the core and centre of that purpose is to overthrow the State by force. Does any honourable member suggest that it is merely the holding of an opinion to be a member of that organization, which has a definite, active purpose, professed and acceded to by all its members? I say that under this Bill, if it passes, and under the law as it then will be, nobody can be a member

of such an association; for such membership is sedition, and sedition at common law is forbidden. So there is no change there. The law said there was a presumption a man was a member, not if he attended a public meeting, but if he attended a meeting of the association. If he was not a member it was not very hard for him to discharge the onus. All he had to do was to swear he was not a member. That is no great hardship! That presumption in similar cases runs through the Code almost from cover to cover. But to be a member of such an association will be an offence after this Bill passes.

So, I ask honourable members who have been seeking the repeal of section 98, what is the real difference? The trouble is, a great many people have been demanding the repeal of this section who did not know its real effect. Nothing forbidden under section 98 was lawful before section 98 was passed. The section simply made specific and definite a certain line of conduct which always had been sedition; but it was put in the form of words, definitely described so there would be warning to everybody that such a thing was sedition.

In this connection, I want to discuss what sedition is. In the common law of England sedition has not been defined, nor has fraud, for the very obvious reason that any definition that the wit of man could devise of either one or the other could be circumvented by some act which, while it would be sedition or fraud, would not be so within the definition. But sedition has always been a crime and heavily punished. The courts have decided on the facts just what constituted sedition, and out of those decisions there has grown a body of jurisprudence, which is in effect to-day in England, and indeed in all civilized countries, though not of course the same in all, that forbids sedition under all circumstances and at all times.

I am asked why I speak of the common law. We were, in respect of the criminal law, under the common law of England until 1892, when it was displaced to the extent that it was at variance with the Criminal Code then evolved and passed and incorporated in the law of Canada. Sir John Thompson, in explaining the provisions of the Code and the state of the law as it would be after that Code was established, made it very clear that, subject to the superior authority of the terms of the Code wherever the Code declared something to be an offence and prescribed the punishment, the common law of England still prevailed. Therefore, unless some act which under the common law of England would be held to be sedition was declared to be not