

I commend and congratulate the honourable senator for that excellent definition of Canadians. Yet, despite that definition of the kind of people we are in Canada, we find in the year 1966 that it is necessary for the Parliament of Canada to pass a bill dealing with and defining genocide.

In my opinion, this bill is no compliment to the people of Canada. Is Canada being put on a par with the Germany of Hitler and his gang of storm troopers and SS troops?

Other senators have dealt with the present provisions of the Code that deal with the use of the mails for distribution of hate propaganda, and other sections dealing with riots, unlawful assemblies, libel, murder, and so on. I do not need to repeat those arguments, as they are already on *Hansard*. However, those sections in the Code are at least a partial answer to the case that this bill is unnecessary.

Honourable senators, there occurred a case recently in Toronto where a so-called Nazi by the name of Beattie was prosecuted, if my recollection is correct, for unlawful assembly and inciting to riot. That same matter comes under this bill.

Reference has also been made to the section of the bill which shifts the onus of proof to the accused. That is section 267B which reads in part as follows:

(3) No person shall be convicted of an offence under subsection (2) where he establishes

(a) that the statements communicated were true; or

(b) that they were relevant to any subject of public interest, the public discussion of which was for the public benefit, and that on reasonable grounds he believed them to be true.

It is hardly necessary to mention in this chamber that any change whereby the onus of proof is shifted to the accused is certainly a change in the law of Canada. Other senators have given examples of things that might happen, and one senator stated that he must reach for far-fetched examples. I would like to add another one to the list. Everyone will recall that in the Recessional Hymn written by Kipling there appears the line "Or lesser breeds without the law." If Mr. Kipling were in Canada and this act were in force, I wonder if he would be charged with inciting hatred or contempt.

I would also point out that section 267c, subsection (3) reads:

The owner and the author of the matter seized and alleged to be hate propa-

ganda may appear and be represented in the proceedings in order to oppose the making of an order for the forfeiture of the said matter.

It seems most peculiar that any such provision should appear in any bill in Canada. In this country, when has anyone been charged with an indictable offence on which he has not the right to appear in court and be represented? If this bill passes in its present form, there will be considerable confusion in our courts on the various legal interpretations of many words used in the bill. I refer to such words as "a public place". What is a statement which incites hatred or contempt? When would such incitement lead to a breach of the peace? What is meant by "communicating statements wilfully to promote hatred and contempt"? What is meant by the phrases, "that the words were relevant to any subject of public interest", and "the public discussion of which was for the public benefit"? What is meant by the definition that "statement" includes words either spoken or written, gestures, signs or other visible representations? What is "hate propaganda" as defined in the last section of the bill?

One has only to look over legal prosecutions in the Province of Ontario in the last few years to remember the various interpretations of words such as those. In Ontario in the last few years there have been various prosecutions dealing with obscene literature, movies, stage plays, paintings and sculpture. I remember various cases where prosecutions were brought against obscene literature. Defence counsel called some of the most outstanding literary men in both the United States and Canada to give evidence on behalf of the author that these books should be in the realm of classics. The same has applied to stage plays, paintings and sculpture. What one witness may describe as totally indecent, another will describe as a work of art.

Senator Lang, in his speech, has properly stated that the court decision on these interpretations may well depend upon the prejudices, emotions and fears of the presiding judge. I agree with that comment in every respect.

In Section 267c, subsection 1 provides that a judge who is satisfied by information upon oath that there are reasonable grounds for believing that any publication, copies of which are kept for sale or distribution in premises within the jurisdiction of the court, is hate propaganda, shall issue a warrant under his hand authorizing seizure of the copies.