

*Hate Propaganda*

which he should exercise, and which I say he should do.

Let us apply that thinking for a few moments to this monstrosity. Let us just see how this bill would be interpreted by the Supreme Court of Canada or by Paul Martin. If he were seated here he would be eating the Tories out, as he used to do, even if there were 208 of us—chewing us like nails—if he had to put up with this. A judge who is satisfied by information upon oath, just a plain affidavit such as one can swear in certain offices all the time, 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. I have in my files the Cohen report which is full of copies of alleged hate literature from the United States. When this bill becomes law, will someone come to my office with an affidavit and go through my political files on the pretence he is looking for hate literature when he is really looking for other material? That is the point!

The Supreme Court of Canada, in view of their interpretation of the Bill of Rights and the BNA Act, would declare this bill unconstitutional. I hope I have time to develop this point. The hate law demands that one prove one's innocence. Take this little old picture of Prime Minister Wilson. The other day in the *Daily Mirror* he was referred to as a poodle dog. They said he sniffs and snorts at the public often and then hangs his head. If one had in his possession some document in respect of an identifiable group, whatever that means, and it were seized, then in seven days he must come before the court and prove he is innocent.

• (4:50 p.m.)

What kind of jurisprudence is this? What kind of nonsense is it? As an average Canadian, an average pleader and an average lawyer, I cannot believe that any court in this land will hold this kind of law constitutional. How can the minister believe in this law: If he does not believe it, then I ask him to do what the professor said in his book—seek advice. Make sure that it is either constitutional or unconstitutional, let the courts of Canada decide. But the hon. member for Calgary North is not going to approve this bill with that provision in it because I say it is unconstitutional. In any event, the bill would work against all minorities and against all

[Mr. Woolliams.]

people in any place where there is freedom of speech.

Now, we come to the constitutional problem of the Bill of Rights. Mr. Justice Hall from Saskatoon, an able pleader and a great lawyer before his appointment said in the Drybones case:

The social situations in *Brown versus Board of Education* and in the instant case are, of course, very different, but the basic philosophic concept is the same. The Canadian Bill of Rights is not fulfilled if it merely equates Indians with Indians in terms of equality before the law, but can have validity and meaning only when, subject to the single exception set out in section 2, it is seen to repudiate discrimination in every law of Canada by reason of race, national origin, colour, religion or sex in respect of the human rights and fundamental freedoms—

Perhaps the only point which should be emphasized is that the Bill of Rights is far superior, not only superior as a form of document but superior in relation to its use of the words "race, creed and colour". These words have been used by many orators because they are so effective. The bill refers to "identifiable group" as meaning any section of the public distinguished by colour, race, religion or ethnic origin. Therein lies the difference. On this legal ground this hate bill is unconstitutional and should never have come before us. What a hangup most people have had? Tarnopolsky said:

In interpreting the Canadian Bill of Rights the courts should not look to the preamble for statements of substantive law.

That is what the Supreme Court did in the *Drybones* case. You cannot equate an Indian with an Indian, and fancy trying to equate an Indian with a person off the reservation. An Indian could not get off the reservation to come and see me in my house. I buy him a few vodkas and he gets drunk. He is guilty and I am not because we are in a private place. It took ten long years for judges with imagination and creativity to properly apply the Bill of Rights. My main point is that the hate bill is unconstitutional.

Before I sit down I want to make one more point. I am convinced that many great men have had to be radical, and thank goodness they were. We would never have got children out of mines and factories, we would never have got unions formed, nor achieved justice and dignity for labour. Groups that have been separated by colour, or religion would never have obtained the freedom that they enjoy today in Canada if somebody had not incited trouble. That is why Martin Luther King is