

*Hate Propaganda*

free speech and arrests the freedom of expression so necessary to a democratic polity.

This kind of verbal gamesmanship is misleading and is based on three hidden but false assumptions. First, it suggests that the arguments in respect of the bill must resolve themselves in terms of whether one is for or against free speech—categorically for or categorically against free speech. Second, it suggests that the right of free speech is an absolute and unfettered right; and third, it questions the validity of the criminal sanction as an educative process. Let me deal with each of these assumptions which form the basis of the philosophic opposition to the bill.

First, I believe one's attitude toward this bill cannot, or should not depend on whether one is for or against free speech. I, of course, believe every hon. member of the House is in favour of free speech, freedom of expression and freedom of assembly. One's position respecting the bill cannot be construed as an automatic label of one's civil libertarian position. The hon. member for Winnipeg North (Mr. Orlikow) has spoken of civil libertarians who are against the bill, but he also spoke with equal authority and experience of civil libertarians who are in favour of the bill. There are respected libertarians who have argued on both sides of this particular piece of legislation. The question is not whether one is for or against free speech but, rather, what are the permissible limits on free speech; what are the permissible contours of freedom of speech and expression?

To put the question another way, to put it in absolute terms and say that if one is for the bill one is against freedom of speech, and if one is against the bill one is for freedom of speech, is to display a type of verbal sleight of hand, a type of verbal gamesmanship. It is what Professor Harold Lasswell of Yale law school has called "the cloud of normative ambiguity", because it derives the normative value by declaring that support of this legislation is tantamount to infringing on freedom of expression and is therefore anti-civil libertarian and even anti-democratic, rather than appreciating the morality of the behaviour being proscribed and the normative value of the principle being affirmed. The principle being affirmed is that no democratic process should oblige any of its members to subject themselves to verbal maiming or lethal language which cannot possibly have any intrinsic redeeming value or advantage, either in

[Mr. Turner (Ottawa-Carleton).]

terms of freedom of speech or the democratic process.

There is a second false assumption on the part of those opposing this bill. I am not saying that the opposition to this bill is not sincere or is not well-founded. I am not being categorical and saying that the bill is a good or bad bill, because when we talk about the subtle balance between freedom of expression on the one hand and the abuse of that freedom by the dissemination of hatred on the other, no one can be absolutely sure or absolutely categorical that he is right. It is a question of value judgment; it is a question of feeling. I submit to Your Honour that the members of the government and the members of the committee who studied this bill tried to achieve a reasonable balance, a reasonable reconciliation, so that the conflicting legitimate interests of freedom of expression on the one hand and the protection of reputation and group identity on the other are balanced. This is a very difficult thing to achieve and we have tried to do our best.

We must realize that nowhere in our constitution and legal practice, and nowhere in our constitutional tradition is there any sanction of the concept of absolute liberty. There is no such thing as an absolute freedom of speech; there is no such thing as an absolute right of assembly. We are dealing with a right which we are trying to enhance without infringing on the rights and privileges of other people. If the hon. member for Calgary North says that the Bill of Rights is impliedly against this piece of legislation, I say that that argument is a bit of sophistry. True, the Bill of Rights talks in terms of freedom of expression, but there is nothing in the Bill of Rights that says there is an absolute freedom of expression.

There is nothing in the constitution of the United States to say that there is an absolute freedom of expression or freedom of assembly. Indeed, no democratic process, Mr. Speaker, could categorically licence any absolute rights—and the hon. member for Winnipeg North pointed out clearly the difference between a right and the abuse of that right by licence—without endangering the viability of the democratic process itself. The history of democratic society is the history of the balancing of legitimate interests and legitimate rights as between various members and classes of that society and between members of that society and the government by which they are governed.