

perhaps early in 1930, when people knew what Hitler was advocating in Germany about the Jews, it was said, "It is nonsense. It is ridiculous. Who can wipe out a people? Who ever heard of such a thing? It cannot be done." No one would have thought that it could be done, but in the climate of Germany it became possible.

Now, the climate of Canada is different and there is not the slightest reason to think that the climate of Canada will ever resemble that of Germany. Nevertheless, we live in a generation where it happened, and we have with us today at least one person who survived the European holocaust. So that he knows that you can grow up in an atmosphere where you do not think it is possible for that to happen but then you see it happen. And the French Canadians, no matter how badly they have been denigrated and treated by many people in Canada, have never, happily, been the subject of an actual genocide, whereas we have seen in the world that these things can happen even in a highly civilized community.

Laws, I think, are not always passed only to take care of something that the people can envisage as happening in the present day or at the present moment. So we take care to legislate against the things we know can happen by virtue of human experience in certain cases. This is a case where it seems to me that nothing can be lost by prohibiting the advocacy or promotion of genocide, and God forbid that we should need it, but there might be something gained.

**The Chairman:** If I may be permitted to make one interjection here, I would like to draw to your attention a matter which I think gives us no great pride today. During the war and particularly after Pearl Harbor there was a wholesale transportation of people of Japanese ancestry from the west coast to camps in the interior of Canada. When we look at that situation today we wonder how we could have been so stupid. Yet we considered ourselves as good, reasonably decent people. Yet at that time there were people who even advocated that we should not bother feeding these people but that we should in fact get rid of them.

**Mr. Hayes:** This is reminiscent of what happened to the Acadians.

**Mr. Fred M. Catzman, Q.C., Past Chairman, National Joint Community Relations Committee of the Canadian Jewish Congress and B'nai B'rith:** I think basically that while we

may not be dealing with a clear and present danger, as it were, that is so far as genocide is concerned, our experience has demonstrated that it is always useful and educational for the Government to declare as a matter of policy what the social conscience of the population subscribes to. It has been our experience that when the Government legislates and declares policy the average citizen, who is a decent, law-abiding citizen, goes along with that policy, and we find that it is a great deterrent to anyone who may feel that he is exercising a God-given right in taking some stand that might be crackpot. But if the law has spoken and if Government has declared a policy, the citizens by and large will adhere to the policy and refrain from advocating genocide and doing anything contrary to that policy. I say if this legislation were enacted we would be bitterly disappointed if we found it necessary to have to resort to the courts to enforce it. It would be our hope and expectation that the very enactment of such a law as a declaration of policy would have the salutary effect of making citizens aware that these are taboos they shouldn't engage in and generally the climate of opinion in the country would be elevated as a result of such legislation.

**Senator Roebuck:** Mr. Chairman, may I ask a practical question on this matter? One of the arguments that was put forward in the Senate was that this genocide section 267A was unnecessary because of the present sections of the Criminal Code. Now would one of the lawyers here answer this question for me? To what extent is the Criminal Code deficient to protect against the things that are prohibited in this proposed section?

**Mr. Hayes:** There are two points I would mention in connection with this. First of all in the Criminal Code in so far as it creates the crime of murder, murder is the substantive offence itself, but there is nothing in the Code which would now prevent the incitement or the advocacy to murder a group, or to advocate the disappearance of a group. There is also the fact that on the whole the corpus of the criminal law which is supposed to reflect the mores and moral code of the community has been framed over a long period of years on the basis of individual rights. That is why there is a defamatory libel which an individual can prosecute, but there is nothing of a group libel nature. The same is true of murder. There is an act which prohibits murder and, I daresay, conspiracy to murder—I am sure this would come within the four corners