

Hon. Mr. DANDURAND: —a man was arrested because he had in his possession some literature that happened to have been written by Thomas Jefferson, who was one of the authors of the Declaration of Independence and later President of the United States. When the man told that to the officer who arrested him the officer replied, "Well, we will take care of you now and we will get that man Jefferson afterwards."

May I refer also to the presumption of guilt which appears here. A man is seen at a meeting of one of these so-called illegal associations, and he is presumed guilty. If he does not prove that he is not guilty he is liable to be sentenced to gaol for twenty years. It is prohibited, under possible penalty of twenty years, to import any book in which there may be something which defends revolution. Some people were afraid that the reading of a book in which the War of Independence between England and the United States was justified would render them liable to imprisonment for twenty years under this section. Even under the war Order in Council the maximum penalty was five years, but because of that panic in 1919 a man who merely had a book in his possession might be sent to gaol for twenty years.

We have in the Criminal Code, which is based on the common law of England, all the provisions which make English law and British justice sufficient to meet all emergencies. The common law relating to sedition is already in our Criminal Code and always has been. Section 133 says:

133. Seditious words are words expressive of a seditious intention.

2. A seditious libel is a libel expressive of a seditious intention.

3. A seditious conspiracy is an agreement between two or more persons to carry into execution a seditious intention.

Then section 134 states:

Everyone is guilty of an indictable offence and liable to imprisonment for a term of not more than twenty years—

That is the same as in England.

—who speaks any seditious words or publishes any seditious libel or is a party to any seditious conspiracy.

This crime of sedition has been discussed in Great Britain on many, many occasions. In Halsbury's Laws of England, second edition, volume 9, sedition is defined at page 302:

Sedition is a misdemeanour at common law consisting of acts done, words spoken and published, or writings capable of being a libel published, in each case with a seditious intention.

Where the words are oral the offence is called the speaking of seditious words; where the words are written, the offence is called

the publication of seditious libel; where two or more combine for the furtherance of a seditious intention the offence is called seditious conspiracy.

At page 303:

Every person is guilty of the common law misdemeanour of speaking seditious words—

And this applies to us.

—who speaks and publishes words with a seditious intention.

Every person is guilty of the common law misdemeanour of seditious libel who publishes matter containing anything capable of being a libel, with a seditious intention.

There the punishment is fixed at a term not exceeding two years. What I find in those decisions is rather that in Great Britain there has to be something constituting an overt act, not merely an opinion which people might hold. It is not until it is transformed into an overt act which might be dangerous to the peace of the State that it becomes an offence. The principle in that regard cannot be better expressed than in the words of Thomas Erskine in his celebrated speech on the trial of Thomas Paine. He said:

His opinions were adverse to our system—but I maintain that opinion is free, and that conduct alone is amenable to the law.

May I also quote what Macaulay said in his essay on Hallam?

To punish a man because he has committed a crime, or because he is believed, though unjustly, to have committed a crime, is not persecution. To punish a man because we infer from the nature of some doctrine which he holds, or from the conduct of other persons who hold the same doctrines with him, that he will commit a crime, is persecution, and is, in every case, foolish and wicked.

The Bill adds a few words to section 133.

They may not be necessary, but the reason for adding them is to make it clearer that nobody can by words or writing preach the use of force to bring about governmental changes. In some of the judgments the courts seem to have required that it must be proved that the words or the teachings were strong enough to lead to disturbance, disorder and trouble. This is merely to make it absolutely clear that nobody should be allowed to teach the use of force to bring about change of government in Canada.

Has section 98 prevented any person from being a Communist? A man named Tim Buck was sent to gaol because of a breach of section 98. The Government which enacted the legislation was responsible for his release after he had served only half his term. The first thing he did upon release was to hold meetings in Montreal, Toronto and Ottawa. What good did that do? As a matter of fact he ran for Parliament. Did section 98 pre-