

This bill is much more solicitous for the protection of the accused, and we have made it even more so, than is the English act. However, not satisfied that in order to be illegal such statements must be not relevant to a subject of public interest, not discussed for the public benefit and not believed by the accused on reasonable grounds to be true—that is, lying—the committee has added two further precautions, to make precaution doubly precautions. First:

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

(a) for expressing in good faith and in decent language, or attempting to establish by argument used in good faith and conveyed in decent language, an opinion upon a religious subject;

Honourable senators, the days of religious wars have gone. We have suggested that amendment, and I hope that everyone here will agree with us.

The second step we have taken to make secure the administration of the act and the welfare of those who must abide by it, is this:

No proceeding for an offence under this section shall be instituted without the consent of the Attorney General.

Honourable senators, we have gone as far as we could go to make this bill acceptable to the critics in this house, and to make it safe, secure and proper in the country at large.

The next section of the bill is with respect to objectionable materials. You will find that section 267B. (4) provides that upon conviction under the act the court may order,

anything by means of or in relation to which the offence was committed—

That is to say, the objectionable literature.

—to be forfeited to Her Majesty...for disposal as the Attorney General may direct.

So that the Attorney General is present, shall I say, in this transaction in two ways: firstly, the proceedings cannot be instituted without his consent; and, secondly, the materials upon which the proceedings were based can be disposed of only as he directs. And this, honourable senators, after a conviction has been registered.

If there is anything remarkable about this legislation it is the extraordinary precautions we have taken for protection of the accused and of his rights, safety and privileges.

29234—102

Then there follows a number of definitions. The definition of "statements" is broadened so as to be all-inclusive, as is the definition of the word "communicating". This is to enable the Bell Telephone Company to deny the use of telephone facilities for the dissemination of hate propaganda against identifiable groups.

Those honourable senators who are members of the committee will recollect the kind of scurrilous material that was presented to us by the telephone company, and which was disseminated over its lines. An official of the company said that they were unable to prevent this under the law as it stands, and that the company was strongly in favour of some legislation making illegal this method of disseminating hate propaganda, so that the company could stop the use of their lines for this purpose.

Hon. Mr. Choquette: Do you think they need legislation such as this to be able to do that?

Hon. Mr. Roebuck: It may be that they do not. I think that if I were on the board of directors of the company I would have stopped it. On the other hand, we in this chamber can hardly blame a company for being careful in seeing that their conduct is legal, and not illegal. There is no reason in the wide world why we should stand by and allow such material to be disseminated in that way—a way which, in the bona fide opinion of good lawyers, is perfectly legal, and beyond their control. Nor do we wish to hand to the telephone company the power to censor materials that they do not like going over their lines. We have enacted very stringent rules in that regard.

Section 267C makes possible the picking up of hate literature without subjecting the owner or the distributor in all instances to prior prosecution. The police can make a seizure on a warrant issued by a judge who must act on sworn information, and within seven days of the issue of this warrant the judge must notify the owner to appear in court to show cause why the material in question should not be forfeited to the Crown for disposal as the Attorney General may direct.

A right of appeal lies from even that judgment of forfeiture, and the committee has added a further precaution by requiring a fiat of the Attorney General as a prerequisite to such proceedings.

It has been argued that the seizure should be permitted only after the conviction of the