
**CHURCH LEADERSHIP & THE LAW
SEMINAR
Christian Legal Fellowship**

London – May 11, 2005

**Hate Propaganda Under Bill C-250:
What Churches Can Do in Response**

(Power Point Presentation)

By Bruce Long, B.A., LL.B.

© 2005 Carter & Associates

CARTERS™.ca

**CARTER & ASSOCIATES
PROFESSIONAL CORPORATION**

BARRISTERS, SOLICITORS & TRADE-MARK AGENTS
Affiliated with **Fasken Martineau DuMoulin LLP**

Main Office Location

211 Broadway, P.O. Box 440
Orangeville, ON, Canada, L9W 1K4
Tel: (519) 942-0001
Fax: (519) 942-0300
Toll Free: 1-877-942-0001

www.carters.ca

National Meeting Locations

Toronto (416) 675-3766
Ottawa (613) 212-2213
London (519) 937-2333
Vancouver (877) 942-0001
"Proactive Advice"®

www.charitylaw.ca

Note: See Church Law Bulletin #2 at www.Churchlaw.ca for more details

Section 318 - Hate Propaganda

Advocating genocide

(1) Every one who advocates or promotes genocide is guilty of an indictable offence and liable to imprisonment for a term not exceeding five years.

(2) In this section, “genocide” means any of the following acts committed with intent to destroy in whole or in part any identifiable group, namely,

2

(a) killing members of the group; or

(b) deliberately inflicting on the group conditions of life calculated to bring about its physical destruction.

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

(4) In this section, “identifiable group” means any section of the public distinguished by colour, race, religion (or) ethnic origin or sexual orientation.

3

Section 319

(1) Every one who, by communicating statements in any public place, incites hatred against any identifiable group where such incitement is likely to lead to a breach of the peace is guilty of

(a) an indictable offence and is liable to imprisonment for a term not exceeding two years; or

(b) an offence punishable on summary conviction.

4

(2) Every one who, by communicating statements, other than in private conversation, willfully promotes hatred against any identifiable group is guilty of

- (a) an indictable offence and is liable to imprisonment for a term not exceeding two years; or**
- (b) an offence punishable on summary conviction**

5

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

- (a) if, he establishes that the statements communicated were true;**
- (b) if, in good faith, he expressed or attempted to establish by argument an opinion on a religious subject or an opinion based on a belief in a religious text;**

6

- (c) if, the statements were relevant to any subject of public interest, the discussion of which was for the public benefit, and if on reasonable grounds he believed them to be true; or**
- (d) if, in good faith, he intended to point out, for the purpose of removal, matters producing or tending to produce feelings of hatred toward an identifiable group in Canada**

7

(6) No proceeding for an offence under subsection (2) shall be instituted without the consent of the Attorney General.

(7) In this section,

“communicating” includes communicating by telephone, broadcasting or other audible or visible means;

“identifiable group” has the same meaning as in section 318;

8

Section 319

(1) Every one who, by communicating statements in any public place, incites hatred against any identifiable group where such incitement is likely to lead to a breach of the peace is guilty of

(a) an indictable offence and is liable to imprisonment for a term not exceeding two years; or

(b) an offence punishable on summary conviction.

9

Defences for 319 subsection (1)

Defences are very limited:

1. Statements not likely to lead to a breach of the peace
2. Statements made in a private area
3. Statement is protected by speakers freedom of religion – a constitutional right – however this defence has not been effective in protecting faith based discussions

10

- There is no statutory protection or exemption for sub-section (1) statements
- Several key words such as “hatred” or “sexual orientation” are not defined. This leaves open their meanings for uncertain interpretations
- Even child pornography has a wide defence available

11

Suggestions

1. The decision to speak publicly about activities of an identifiable group must be made by the speaker who is aware of the risks and the boundaries
2. Biblical references may illustrate but not denigrate
3. Materials utilized in educational institutions should be neutral (non judgmental) and expansive (include all aspects of human sexuality)

12

Avoid

1. Condemning the individual based on his/her group membership
2. Suggesting different treatment for different groups

13

Difficulties With Speaking Publicly

1. How can a religious text on same sex issues be interpreted without being judgmental
2. Public statements require extra care

14

Conclusions

1. Exercise your constitutional right to remain silent in the event of being targeted
2. Consult someone experienced in hate propaganda situations
3. Submit all organization's documents to a section 319 screen

15

DISCLAIMER

This handout is provided as an information service by Carter & Associates. It is current only as of the date of the handout and does not reflect subsequent changes in law. This handout is distributed with the understanding that it does not constitute legal advice or establish the solicitor/client relationship by way of any information contained herein. The contents are intended for general information purposes only and under no circumstances can be relied upon for legal decision-making. Readers are advised to consult with a qualified lawyer and obtain a written opinion concerning the specifics of their particular situation.
© 2005 Carter & Associates
