

**The Chairman:** Thank you very much.

Welcome, Mr. McVety, president of Canada Christian College. Mr. McVety is here as a witness for our deliberations on Bill C 250.

(Take 1750 Follows – Dr. Charles McVety, President, Canada Christian College: Thank you, Mr. Chairman...)

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(1750 -- following The Chairman: ...of Bill C-250.)

**Dr. Charles McVety, President, Canada Christian College:** Thank you, Mr. Chairman and honourable senators. I want to address you on the issue of Bill C-250, which is of grave concern for hundreds of thousands, if not millions, of Canadians who are very much afraid of this bill. I am the President of Canada Christian College, a theological college with over 1,100 students. On September 7, we called for an afternoon of prayer where over 100,000 people in 22 regions across the country came out to pray for this issue. We prayed that we would be defended against the attack that is waged through Bill C-250.

I want to thank you for allowing me to speak today. We applaud your efforts to reduce hate propaganda. Every civilized person certainly abhors any kind of hate propaganda. We witnessed much of this last week in the City of Toronto with anti-Semitic incidences. A central tenant of the faith of Christianity is to love one another but Bill C-250, albeit proposes to restrict hate propaganda, is fundamentally flawed in many ways.

First, the bill equates sexual behaviour with ethnic origin and religion. Second, it does not provide any attorney general protection under section 319(1) of the Criminal Code. Third, there is no definition for "sexual orientation." Fourth, the bill reduces the normal criminal practice of proving beyond a shadow of a doubt in order to incarcerate and penalize under section 319(1) and reduces this to a 50-50 split whether it is likely or unlikely. Fifth, the bill is a breach of the authority of the trust given by the people of Canada. Sixth, it is contradictory because it attacks religion while it purports to protect religion. The result of passing Bill C-250 could be catastrophic for Canadians. If the bill were passed, people could be convicted under this and sent to prison. Such prosecution could be catastrophic for many, especially those of goodwill and faith attempting to build this country rather than tear it down.

With this in mind, I ask you to rethink the clauses of the bill and even the fundamental purpose of it. In this instance, we are dealing with the Criminal Code and not with policy, ideology or a kind of argument. We are also dealing with the punishment of criminals. We cannot possibly believe that teaching against sexual behaviour constitutes the making of a common criminal worthy of incarceration.

To make a moral equivalent between someone's sexual behaviour and ethnic origin is unethical. Sections 318, 319 and 320 of the Criminal Code protect people against hate propaganda and from those who would say that it is wrong to practice Judaism or any other religion. They protect people in this country from being attacked by hate propagators claiming that it is wrong to be African or Oriental or of any other ethnic origin.

Bill C-250 deems it a criminal offence to state that it is wrong to practice sexual behaviour. This is of great concern to us, especially those of us that teach the bible, because it waters down the current protections. We have just experienced a rash of anti-Semitism in Toronto. People have fought for generations to gain Criminal Code protection against hate propaganda. By the addition of two words -- sexual orientation -- to the bill, we have watered it down and equated it to something that has no right to be part of a Criminal Code.

Bill C-250 would clearly stop the teaching that opposes the practices of sexual behaviour. We cannot possibly drift toward that in this great country of Canada. Bill C-250 has this incredible dichotomy because it would provide an exemption, in section 319(3)(b), for those who teach in a religious context or based on a religious text -- those who teach against sexual behaviour in that context. I believe the proposed subsection is fundamentally flawed because it not only pertains to the hate propaganda based on sexual orientation but also to hate propaganda based on ethnic or religious origin. This is a serious problem because we live in a complex world where our society is literally under attack by people who believe that we are of the wrong religion. People reference scriptural text to justify attacks on people. We saw evidence of that on September 11 in New York City and many times since. By adding this proposed subsection to Bill C-250, Osama bin Laden and others like him will be free of section 319(2) pertaining to hate propaganda because they have referenced scriptural texts to support their actions. This is a dichotomy because I know the purpose of that amendment -- to protect those who want to teach that sexual immorality is wrong and that sexual behaviour outside marriage is wrong. However, that is not the case. The proposed subsection goes well beyond that.

**Mr. McVety:** Section 319(1) of the Criminal code declares no protection by the attorney general. A private citizen can then lay a charge. It could be a frivolous charge or a politically-based charge that could end with prosecution and indictment – a horrific ordeal to go through.

The bill contains no definition of "sexual orientation." What is sexual orientation? I looked it up in the dictionary and in many different journals of psychology and the definition varies greatly. There are many definitions in the back of the Criminal Code. Why could a definition of "sexual orientation" not be added?

I believe this breaches the Canadian Charter of Rights and Freedoms because we are guaranteed freedom of religion. The book I have with me teaches, on almost every page, against one kind of sexual practice or another. If we are not allowed to teach this Bible, then we do not have freedom of religion and we do not have freedom in this country; we would not be a democratic country. Does Canada want to criminalize people who teach against sexual behaviour?

(1800 follows -- Mr. McVety continuing: Do you really want to put a mother...)

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(Following Take 1750, Mr. McVety, teach against sexual behaviour? TAKE 1800 begins here, Mr. McVety continuing)

\*\*Do you really want to put a mother who goes to a Girl Guides meeting and teaches against sex out of marriage in jail? Do you want to put that lady in jail? I do not believe you do. Therefore, I believe that this great Senate that is charged with the protection of this country and the protection of the citizens, will stand up and make the necessary changes if not scrap Bill C-250 in its entirety. I thank you for listening to me today.

**Senator Beaudoin:** The way I read this addition to a list of words is to the effect that we are just adding something. That is the way I read it. In the *Vriend* case, the court said that sexual orientation should be included and they ruled that it should be included in the legislation from Alberta. In this case, it is added. The way I read it, I consider it to be an addition. I cannot see how you can conclude that it would be impossible at the university or in the church, et cetera, to teach the other religion because it is not related directly.

**Mr. McVety:** Unfortunately, it is related because it is in the same Criminal Code section that you are attempting to put this in. You are relating it to ethnic origin and religion.

**Senator Beaudoin:** That is the way you read it.

**Mr. McVety:** No, that is what is in the Criminal Code. You are adding this to ethnic origin and religion. There is also race and colour, but that is also ethnic origin. Can I teach that it is wrong to be Black? Can I teach that it is wrong to be Jewish? No, I cannot. That would be hatred for me to do it. You are now saying that I can no longer teach that it is wrong to practice sex out of marriage. You are putting it in the same Criminal Code. You are adding it to a string of identifiable groups: Race, colour, creed, religion, ethnic origin and then sexual orientation -- that is, sexual practice. I like what Pierre Elliott Trudeau said, namely that the government has no business in the bedrooms of our nation. And the bedrooms of our nation have no business in the government. What we want to do in our bedrooms is up to us. However, we cannot bring it out into and equate it to ethnic origin and religion -- that is, to things that are clearly identifiable on the outside and things that are clearly identifiable in someone's life. We are now saying that it is wrong to speak against someone's ethnic origin and to speak against someone's sexual practice. I believe that that is a fundamental flaw in this Bill C-250 and I ask you, as the Senate of Canada, to right the wrong. I believe this was rushed through Parliament in a very difficult time and I do not believe it received enough debate.

**Senator Jaffer:** Do you really believe that the New York bombings were to kill Christians?

**Mr. McVety:** If you read the statements of those who perpetrated the New York bombings, they were doing this based on their own religious belief. I am not saying it was to kill Christians. They stated and they quoted religious text.

**Senator Jaffer:** But you just told us that it was to kill Christians.

**Mr. McVety:** Did I say that?

**Senator Jaffer:** Yes.

**Mr. McVety:** I do not remember saying that. If I said that, I was an error. It was not to kill Christians, it was to kill people. They quoted religious text. This is commonly done. If you watch what happens and you listen to them, religious text is quoted. I am sort of arguing against myself here; this is the dichotomy. On the one hand, Bill C-250 is protecting me as a religious clergyman so that I can teach young teenage girls that sex out of marriage is wrong. However, you are writing into the Criminal Code -- and this is a serious issue -- that someone can launch hate propaganda and then say, "I am quoting scriptural text. Therefore, I am clear of prosecution. I say that is wrong.

**Senator Jaffer:** You have no problem of protecting people of colour. Is that correct?

**Mr. McVety:** Absolutely no problem.

**Senator Jaffer:** And people of race?

**Mr. McVety:** No. I would fight for that.

**Senator Jaffer:** Neither do you have problems protecting people of religion or ethnic origin?

**Mr. McVety:** No.

**Senator Jaffer:** However, you have problems protecting people of certain sexual orientation?

**Mr. McVety:** No. I have no problem with people being protected, it is the way they are protected here in Bill C-250. What is sexual orientation? I do not even know what it is. I can no longer teach that sex outside of marriage is wrong.

**Senator Jaffer:** That is the problem.

**Mr. McVety:** That is my issue.

**Senator Jaffer:** Where does the act say that you cannot teach sex out of marriage is wrong?

**Mr. McVety:** If you look at the practice of this issue, it is wrong and it is hate. You have to define "hate." It is hate to teach that it is wrong to be African. It is hate to teach that it is wrong to be Jewish. Therefore, it is hate to teach that it is wrong to teach certain sexual orientation. What it is, I do not know because it is not defined in the law. You must go down a train of logic. If it is hate here and it is hate there and you have a train of different discernable groups -- that is, people who practice some type of sexual orientation; I do not know what it is -- you have to logically progress. If it is wrong here, there and there, then it is hate right down the line.

**Senator Jaffer:** You would agree with me in this wonderful country everyone should be protected?

**Mr. McVety:** Absolutely. I fully agree. However, I believe Bill C-250 does not do this. I believe it is a muzzle on religious people who teach that sex outside of marriage is wrong -- that is, that adultery, fornication, homosexuality, lesbianism, all kinds of sex outside of marriage is wrong. I do not believe that you, as the government, have the power or the authority to come against the population of the country and say that you cannot teach your children. I believe every one of you have taught some children, whether it be your own or others, that sex outside of marriage is wrong. Now you will criminalize us for what you have already done.

**The Chairman:** I am sure you would agree, though, that it would be wrong to promote violence or hatred against those who practice sex outside of marriage, would you not?

**Mr. McVety:** I wholeheartedly agree with that. But I am saying that Bill C-250 does not do that. It is wrongfully crafted.

**Senator Smith:** Sometimes I have the feeling that the evangelical community, which I know well because that is my background, sense conspiracies that are not really there. I do not think anyone here has a problem with to a church saying that sex outside marriage is sin and that it is wrong by your standards. This bill is not saying that you cannot do that. To go so far as to incite what sounds like gay bashing or that sort of thing, that is where you draw the line. You draw the line if you were burning crosses on the lawns of people who were Black, as was the case in the south long ago.

**Mr. McVety:** Sure, I would agree with you. However, I do not believe that is what happened here. Bill C-250 does not address it properly. It is just an add-on to something that already exists. It is an add-on to this group of identifiable groups.

(TAKE 1810 follows, Mr. McVety continues: Are we conspiracy...)

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(following tk 1800--McVety cont-- of identifiable groups.)

Are we conspiracy theorists? No. This will be a law under which judges will decide, okay, did Mrs. Brown teach against being of that sexual orientation? If she did, the hammer goes down and a sentence of maybe up to two years in prison is given. That is a Criminal Code offence here.

**Senator Smith:** I went to law school and I did lots of criminal trials. That is not the way I read it. I sometimes wonder about the sense of some people on what constitutes the separation of church and state. We live in a multicultural, pluralistic society. Just because certain acts are viewed by certain people as sinful does

not make them criminal offences. Would you be arguing that homosexuality should be restored to the Criminal Code?

**Mr. McVety:** No, not at all. In fact, I have said to the contrary. I quote Pierre Elliott Trudeau that the government has no place in the bedrooms of the nation. So I am not saying that.

**Senator Smith:** What about people from the gay community who genuinely sense that there are the odd red-neck fanatics out there, however you want to describe them. Some preacher came up here from Oklahoma -- I forget his name -- who literally would incite people to do heaven knows what to people down on Church Street in Toronto.

**Mr. McVety:** I agree that is wrong and needs to be addressed. However, Bill C-250 has not dealt with that properly. It is a sort of band-aid situation that equates sexual orientation to something to which it is not equate-able. The bill needs to be redrafted. I have presented some of the technical problems. There is no protection of the Attorney General.

**Senator Smith:** Why do you think that people from the gay community and from various groups representing people of that orientation are so supportive of this bill? They must think the bill addresses some of their concerns. Why are they wrong and misled?

**Mr. McVety:** The bill does not allow other people in the nation to teach that sex outside of marriage is wrong. If you write a law in the Criminal Code to say that one cannot teach that, then we will have a serious problem in this nation.

**Senator Smith:** You really think that if this bill passes, that anyone who preaches against fornication or adultery -- forget the gender aspects -- will run the risk of being charged on this?

**Mr. McVety:** I truly believe it, especially because under section 319(1), the Attorney General is not involved. A private individual can have a criminal charge laid on someone, even if it is frivolous or politically motivated, and the person will have to defend himself or herself. Let me ask you the question. Can the Senate guarantee me that I will not be prosecuted for preaching and teaching that sex outside of marriage is wrong? Can I be guaranteed that I will not be prosecuted?

**Senator Smith:** We do not live in a society where we can guarantee anything.

**Mr. McVety:** Yet you will guarantee that such teaching is a criminal act. I would hope there would be some guarantee of freedom. That is why I say there is a dichotomy here.

**The Chairman:** If I may, I think Senator Smith is getting at the point that if your teaching does not direct people toward hate or violence, then there is no real issue. I do not think you see that in the bill, do you?

**Mr. McVety:** In section 319, the bill refers to a public statement that is likely to cause a breach of peace. It is only "likely." There is no cause and effect. It does not say "did cause" a breach of peace. It says "likely," perhaps 51 per cent more likely than unlikely. What type of phrase is that, "likely to cause a breach of peace." Now, if my statement is likely to cause a breach of peace, then a charge can be levied. There is no Attorney General protection on that, so a personal individual can levy the charge. I can be put through a criminal prosecution, facing up to two years in prison, under this Criminal Code. I am very afraid of it. I ask you, the Senate, to address this. There are thousands and thousands of Canadians who are equally as afraid of this as I am.

**Senator Smith:** This is a rhetorical question. You do not have to answer. What if I were to put this to you: Do you believe that what happened at Sodom and Gomorrah was the Lord's will and that the Lord's will as it

occurred there should also occur on Church Street or in other little communities like that around the country? I will not ask you that question because I am too nice a guy. I am hoping it makes a point.

**Mr. McVety:** I do not believe that. I do not believe that is for today.

**Senator Joyal:** You are from Ontario, as I understand.

**Mr. McVety:** Yes, I am from Toronto.

**Senator Joyal:** When you say sex outside of marriage is wrong, you are not referring to the definition of marriage as recognized by the Ontario Court of Appeal. You are referring to marriage according to your doctrine?

**Mr. McVety:** I am referring to teaching from Scripture, teaching from sociological evidence, teaching from medical evidence, that sex outside of marriage is wrong. I have a fundamental freedom to teach that in this country, and I would hope that would be sustained even after this deliberation today.

**Senator Joyal:** I am puzzled because marriage in Ontario is between two consenting adults. That is the way the Court of Appeal of Ontario has ruled. When you say to me or to us or to the public generally that sex outside marriage is wrong, do I have to understand that you accept that sex between two consenting adults in the bounds of marriage, according to the law of Ontario, is something you agree with?

**Mr. McVety:** I will go further. This is my opinion; this is my teaching that sex outside of marriage is wrong. Someone else may teach that sex outside of marriage is fine. We are both free to state these things. I would like that freedom to remain. I read in this bill that it will be against the Criminal Code to say that it is wrong to be Black, it is wrong to be Jewish, it is wrong to be of a certain sexual orientation.

**Senator Joyal:** It does not say that.

**Mr. McVety:** That is the logical progression of Bill C-250.

**Senator Joyal:** Let us go back then to your alleged problem with the word "sexual orientation." You ask what it is. Let us go to section 718.2 of the Criminal Code. The title is, "Other Sentencing Principles."

**Senator Cools:** Chairman, in all fairness, if we want to have this dialogue, maybe we can lend to the witness a copy of the Criminal Code. Then Senator Joyal will be able to speak to the witness.

**Senator Joyal:** Do not worry. You will get a copy. We have a learned adviser who is handling the code here.

**The Chairman:** The witness has the section now.

(tk 1820 follows--Senator Joyal: It is in the chapter of the code)

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(following The Chairman -- has the section now.)

**Senator Joyal:** It is in the chapter of the code dealing with purpose and principles of sentencing, and section 718.2 is headed Other Sentencing Principles.

A court that imposes a sentence shall also take into consideration the following principles:

(a), a sentence should be increased or reduced to account for any relevant aggravating or mitigating circumstances relating to the offence or the offender, and, without limiting the generality of the foregoing

(i) evidence that the offence was motivated by bias, prejudice or hate based on race, national or ethnic origin, language, colour, religion, sex, age, mental or physical disability, sexual orientation or any other similar factor,

The concept of sexual orientation, which you allege is imprecise, is already in the code. The courts consider when they sentence someone if a crime was based on alleged elements of bias, prejudice or hate based on sexual orientation. If I were a judge in a criminal court tomorrow and in front of me I had an accused who had been found guilty of an offence, I have to take into account on sentencing him if the motive that brought that person to commit the crime was moved by hate, bias or prejudice based on sexual orientation.

**Mr. McVety:** It still does not define it.

**Senator Joyal:** The court will have to define it.

**Senator Cools:** The judges just know by divine inspiration.

**Mr. McVety:** Was is it? I would like to know.

**Senator Joyal:** May I, please? The concept of sexual orientation is in all the human rights provincial charters, and when it was not there, it was read by the court to be there. Senator Beaudoin mentioned the *Vriend* case. It is not a concept we invented for the purpose of this bill.

**Mr. McVety:** I am not saying that.

**Senator Joyal:** Section 15 of the Charter, which we cherish as Canadians, has been interpreted as including sexual orientation by the Supreme Court of Canada repeatedly. In other words, it is not another vague concept. It is a concept that finds its reality in other legislation that deals with human rights. I think I could quote to you international conventions and so forth.

**Mr. McVety:** Then please tell us what it is.

**Senator Joyal:** I am sure that when a court interprets “sexual orientation” in 718.1, it will refer to those definitions. It will not invent a definition.

**Mr. McVety:** Please tell us, because I prefer not to hear it from the judge when I am sentenced. I would like to hear it now so that I know. What is sexual orientation? I have read so many different definitions of it. I would put to you, the Senate, that “ethnic origin” is very well understood. It is a clear term. What is “sexual orientation?” I would ask you to define it and put it in the definitions. The Criminal Code has a full page of definitions.

**Senator Joyal:** How many pages?

**Mr. McVety:** I would ask you to add it.

**Senator Joyal:** Did you have the same concern when section 718.2 was amended some years ago to include sexual orientation?

**Mr. McVety:** No.

**Senator Joyal:** It is already done in the code. It is already there.

**Mr. McVety:** The phrase is in the code, but we still do not know what it means, and I respectfully ask you to please identify what it is, because this is very serious. This is about going to jail. This is criminal code.

**Senator Joyal:** We take this bill very seriously.

**Mr. McVety:** I know you do, and I respect you for it. I know the Senate is here to be a check and a balance and to protect this great nation of Canada, and I thank you for it, and I thank you for considering this.

**The Chairman:** I would like to thank Dr. McVety for taking the time for being here this evening and sharing his views.

I understood Senator Cools wanted to raise a point of order.

**Senator Cools:** I said I wanted to raise a point of order after, but I did have some questions.

**The Chairman:** I apologize for misunderstanding. Before you go, Dr. McVety, Senator Cools would like to ask you a question.

**Senator Cools:** I thank you for coming before us. You are not alone. Large numbers of people are deeply concerned. I too have been concerned with the fact that "sexual orientation" is being treated as a gen. Section 318 is the genocide section of the Criminal Code. Despite all the best assurances, I do not take sexual orientation to be a gen as race and ethnicity are.

It is very interesting. Some days ago, Mr. Robinson said religion could be changed too. I think that is an incomplete statement, because at the time that these provisions were created in the code 30 years ago, as these issues were conceptualized, religion was intricately connected to race. Make no mistake about it. Most Jewish people are members of the Hebrew race. Most Arab people are members of the Muslim race. Recently, with globalization and so on, maybe you can talk about people changing religion as they change clothes, I do not know, but at the time this was conceptualized, that was the thinking.

I have to tell you I do not share the naive views that are expressed. I believe that once a power is put into the Criminal Code to prosecute, prosecutions will follow, because that is the nature of people and the nature of the exercise.

My real question to you is flowing on this whole thing. Senators, I would like to say to members here that at the time of Bill C-33, the amendment to the Human Rights Act, a bunch of us pleaded with Mr. Rock, the then Minister of Justice, that he not use the term "sexual orientation" but that the law should say what it meant and it should mean what it said. There was a choice of whether it was sexual "preference" or "orientation." There were lots of terms flowing around at the time. I was of the strong opinion that if the objective is to protect homosexual persons from discrimination, then let the law say "homosexual persons." In other words, be specific. I was raised to believe that criminal legislation should be as clear and as concise as possible.

My question as follows: You feel some concerns, and citizens, every time speech is criminalized, should feel some concern. My concern in particular is that these sections, if they become law, will be used politically against certain people for political reasons and to make political points and political statements. Could you comment?

I observed in Mr. Robinson's testimony, and also in Mr. David Jones's testimony, who was with the police association from British Columbia, Vancouver, that they both testified that this bill was not necessary. I believe Mr. Robinson said this bill was symbolic, or largely symbolic or something like that. I have it right here.

Mr. Jones, because I asked him directly if he would use this to prosecute, said no, this bill is about social recognition.

(1830 follows, Senator Cools continuing, What we have are)

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(1830 starts, Senator Cools continuing after, is about social recognition.)

What we have are the strongest supporters of the bill saying that the Criminal Code is already sufficient to be tasked for the crimes that exist. Having said that, I have to wonder why this new criminal power is being created. I know it is a little bit roundabout, but I wonder if you have any opinions whatsoever on the use of the Criminal Code as a means of social recognition or as a means of symbolism. I see too many bad prosecutions. I see too many wrongful things happening daily.

**Mr. McVety:** For years we have had a debate in our society whether or not people can say that sex outside of marriage is wrong. We had a bit of that debate here. Civilized people in a democracy say yes, you can debate. You can state and you can have an opinion and I can have an opinion. We can all be free. What is happening here is Bill C-250 has been written and put forward for social change, so that I can no longer say my piece. I can no longer say that sex outside marriage is wrong. I have a 14-year-old son. I have a six-year-old daughter. I can no longer publicly, the way I read this, say sex outside of marriage is wrong.

I purposely do not say this is only about homosexuality. It is about sexual orientation, and goes way beyond homosexuality. Here we have a debate that is raging, and then an upper hand has come down and it is passed through the legislature with a quick hand. There were promises on the doorstep of the legislature to go make amendments to allow for religious protection in all three areas of the code. They walked in, closed the door, denounced the amendments, voted against them and allowed only one amendment to stand. Now we have a situation where 318 is exposed but 318 is at least protected with some sense of sanity with the attorney general having to actually lay the charge. But 319 (1) is not protected at all and I ask you as the Senate to protect 319 (1) at the very least and allow the attorney general to be that who lays the charge, not some individual who is arguing. Someone says I was on a talk radio show with Svend Robinson. He was arguing for same-sex marriage and I was arguing against it. We live in a free country. Now, he does not want me to be able to argue against it. Now, it is going to be a crime and I am upset about it and so are thousands, if not millions, of Canadians. I personally feel that the whole bill is fundamentally flawed but at least afford the attorney-general protection.

I also do not believe the religious protection is only for sexual orientation. Of course, this also pertains now to ethnic origin and religion. I believe those who fought and spilled their blood to gain freedom in this country against discrimination, and we are still fighting that battle -- the college that I am the president of, 80 per cent of its students are visible minorities and they fight a battle every day -- against hate propaganda and against hatred. I give my opinion that this religious text is not protecting people of ethnic origin.

I believe this whole thing is fundamentally flawed and I ask you as the Senate to fix it. That is why you are here.

**Senator Cools:** You have confined your remarks to situations such as sex outside of marriage. However, this situation goes far wider than that. There are many boorish and hurtful people out there and people who say cruel, insensitive things. However, it does not mean that one should go around throwing them in prison. As a matter of fact, we may find out we are throwing an awful lot of people in prison.

My concern, in addition to what you have said, is that individuals, for example, doctors who speak out about public health concerns around sexual activities, will find themselves being prosecuted. Non-religious

individuals, who express moral opinions about certain forms of sexual activities, will find themselves prosecuted because what we are talking about is words, the use of speech. It was interesting in one of the defined cases, Keegstra, which was before the Supreme Court, Madam Justice McLachlin dissented in that judgment and said that hate was a subjective thing and the evaluation of hate was subjective. She went into what I thought was a very enlightening set of statements on the question of hate and speech and the hesitation and reluctance we should always have when we move to criminalize speech. I put that question to Mr. Robinson, because he has cited the majority judgment. I asked him to cite the minority judgment because I thought it would balance.

**The Chairman:** Senator Cools will you come to a question soon? You have had a fair amount of time on your first question and I am being very tolerant. Mr. McVety has been kind to come here and spend the time.

**Senator Cools:** I was wondering whether Mr. McVety has any evidence about the number of people who are religious people or people who are concerned about the morality around sexuality, if he has, in his knowledge, people who have been threatened and or have had actions taken against them via the human rights route? I speak to many people daily, and I can tell you whether it is Scott Brockie in Toronto and so on, but the heavy hand or persecuting or prosecuting disagreement is upon us.

**Mr. McVety:** I say that there is a dichotomy here because, on the one hand, sections 318, 319 and 320 are to protect people of religion and then on the other hand, it is used to silence people. This book, almost on every page, speaks against some type of sexual practice. All of the sudden, the same Criminal Code that has been fought for, for years, to protect people who want to preach and teach religious values is now being used to muzzle and threaten, with even incarceration. This is very serious, very troublesome and people are afraid of this right across the country.

I am not sure I fully understand the question, have I come across statistical data --

**Senator Cools:** I met with a group not too long ago and they were able to cite instances of individuals in their group who are teachers, who are nurses, who are in different occupations, and they are feeling a distinct chill on expressing opinions.

**Mr. McVety:** I dealt with one of our graduates yesterday who is a teacher in the public school system and was handed a document two weeks ago stating categorically that 10 per cent of her classroom is homosexual on average, which is a very debatable point. She had to teach so that those students would be comfortable in homosexuality in her class. This is against her religious teaching.

(1840 follows, with Mr. McVety: It is against what she)

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(Following Take 1830, Mr. McVety continuing -- her religious teaching)

\*\*\*It is against what she understands for humanity. To have sex for any occasion -- adultery, or multiple sex or whatever -- is harmful, and now she has been given a document stating that she must, and this is pressing down on Canadians.

It is not a matter of freedom -- if Svend Robinson wants to teach that homosexuality is fine, let him do it. I am not asking for a Criminal Code against that. However, he is asking for a Criminal Code so I can no longer teach it, so that a teacher can no longer teach it -- a scout leader, a girls' club leader can no longer teach that sex outside of marriage is wrong. That is why this thing is so fundamentally flawed.

**Senator Cools:** Also, chairman, a lot of our dialogue and debate here has not included or comprehended the amount of so-called sex education that is going on throughout school systems. I think these decisions have to be made in the context of social realities today. In any event, I think your point has been made.

I would like to say to you, in respect of another file that I worked on, I see the criminal prosecutorial system misused daily. I have seen civil and criminal judicial proceedings misused frequently, so I do not have the innocence.

There was a time when I used to think there is justice and everything will be fine and good, and the system is intact and every lawyer is an honest lawyer and every judge is a competent judge and so on.

**The Chairman:** Senator Cools, I am going to interrupt you. Mr. McVety is here to share his views and opinions. If you want to share your views with him, perhaps you could do it after the meeting. If you have a question for him, please put it to him so we can get on with the meeting. Do you have a question?

**Senator Cools:** I did not think I was impeding the meeting.

**Senator Bryden:** We have been at this for over two and a half hours. A number of us had other appointments at 7:00 p.m. and we have to get there, and it is now almost 6:45 p.m.

**The Chairman:** Senator Cools, do you have a question?

**Senator Cools:** I did not realize we had a time limit on this meeting. Perhaps, chairman, at the beginning of the meeting we could try to determine, so we could all know, what the time limit is because there are times --

**The Chairman:** My point is not that we have a time limit. My point is if you want to share your views with the witness, that is one thing -- this is not the forum for that. The witness has given generously of his time to be here. We have taken a fair amount of his time, and he has engaged in rigorous debate with a number of senators. With respect to expressing your views, we can do that at another time.

**Senator Cools:** I think, chairman, you will discover that the witness is comfortable with my line of questioning, and that I was expressing no hostility to his opinion. I think the witness is quite comfortable with me.

In any event, if members wish to wind down the meeting, I will not complain.

**The Chairman:** Thank you, Mr. McVety, for taking time to be here.

**Mr. McVety:** I thank you for allowing me to be here. We put this into your able hands and we trust that you will do what is good for this country. I love this country and I know you will do what is right.

**The Chairman:** Senator Cools, you had a point of order.

**Senator Cools:** I thought we were going to deal with the point of order of Senator Tkachuk. I have a couple of points that I would like to raise as a point of order.

This point of order arises out of the fact that a couple of days ago I was viewing the broadcast of Mr. Robinson's testimony before us on March 10, 2004. In that testimony, I put a question to him as follows. I shall quote the statement that I made in part:

I understand the concerns, but the other parts of the code speak about colour, ethnicity, race and so on. Sexual orientation, as far as I know, is not an immutable characteristic.

Honourable senators, my skin is black; that is immutable.

I go on to say that there no evidence that has been put before us about the immutability of sexual orientation.

In his response to me, Mr. Robinson says the following:

First, you suggested that your race is an “immutable characteristic,” -- I believe those were your words -- that sexual orientation is not necessarily an immutable characteristic and that you could have had in your life a relationship with a woman as well as a man, for example -- in your words, that it is fluid.

At the time, I responded, "Not me, but some could." However, that did not show up on the record in the broadcast, which brought me back to examine the record very clearly.

I just wanted to say that I found those remarks inappropriate and distasteful. I just wanted to raise that as a point of order. I do not know what I said that Mr. Robinson could possibly be repeating, that he could say that.

**The Chairman:** In order for it to be a point of order, it has to be a breach of a rule.

**Senator Cools:** There are breaches that there should be no personal insulting statements. It is a very common, known rule, and an apology would be easy, it would be nice. My understanding is that in our exchanges with each other, there should be no sharp, personal or taxing statements; and this, to my mind, is a little bit -- maybe you did not hear carefully.

I will read it again. He says:

... you suggested ... I believe those were your words -- that sexual orientation is not necessarily an immutable characteristic and that you could have had in your life a relationship with a woman as well as a man, for example -- in your words, that it is fluid.

I said nothing of the kind. I find this extremely distasteful and unnecessary.

I think it is out of order and improper. I would never make a statement like that. I can raise it again if you want, if time is of the essence?

**The Chairman:** If you wish--

**Senator Cools:** I can raise it again. I am used to that.

**The Chairman:** If you wish, Senator Cools, I will review the record. If you want me to take it up with Mr. Robinson, and if it is appropriate, I will bring it back to the committee and be directed by the committee whether or not we should ask for an apology from Mr. Robinson. Would that be okay with the committee?

**Some Hon. Senators:** Agreed.

**Senator Cools:** I never said anything like that, and I have a few problems with that. If I said anything like that to Mr. Robinson, I have no doubt he would be up in arms.

I have another one. There was an ad in the newspapers a few days ago, sponsored by REAL Women, and it was in the *National Post* on March 17, 2004. It was an ad against Bill C-250. I received a phone call from Janis Tibbets, a journalist with the *Ottawa Citizen*, a few days ago to the effect that Svend Robinson told her that I had paid for this ad, and was that true?

(Take 1850 follows, Sen. Cools continuing - I was shocked and)

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(1850 STARTS HERE. Sen. Cools continuing after: Was that true)

I was shocked and surprised. I told Janis Tibets, "Of course not. I had not paid for any such ad." So I wanted to raise that.

**The Chairman:** Is that a committee matter?

**Senator Joyal:** It is outside the committee.

**Senator Cools:** This is Bill C-250.

**Senator Joyal:** I have no problems to make sure that the transcript of what happened in a committee be corrected and reflect clearly the words that Senator Cools said to us, in all her honour as a senator, so that it indicates the fact that she did not say it. It happens during committee proceedings.

However, what can happen between a senator and a third party outside a committee sitting, to me, is not within the walls of this committee.

**Senator Cools:** This is not so. It is within. It is not a question of privilege. It is about a matter that we are currently studying. It is very much within the purview of the committee.

I have a third one which definitely concerns the committee.

**The Chairman:** Let us deal with the second one. I am of the opinion that the fact that the bill number was mentioned has nothing to do with your second point with committee proceedings or hearings.

**Senator Cools:** The bill was about the Senate committee and urging people to come before the Senate.

**The Chairman:** The issue that you raised is something that was said with regard to whether or not you paid for it.

**Senator Cools:** I was asked to verify because Mr. Robinson supposedly told the journalist that this was so.

The third point is I have a statement from a web page of March 16, 2004. It is called The Dominion Daily Weblog, and the headline is: "Senate filibuster threatening hate crime legislation?" It is from Svend Robinson. I quote the third paragraph that says:

Bill C-250

The bill that includes "sexual orientation" in the hate propaganda sections of the Criminal Code, is at risk of being lost because of a filibuster by unelected Senators, led by Liberal Anne Cools."

Honourable senator, this committee is not filibustering this bill at all. There is no filibuster going on in this committee. I can assure you that I am not leading any filibuster on this particular committee.

It goes on you know how it is being blocked in the Senate and on and on. I wanted to say that and to put it out. You can rule as you wish. That is okay with me. I do not think there is filibustering going on and I am not leading any filibuster on this particular committee.

**The Chairman:** Again, Senator Cool, that is not a matter with respect to proceedings or anything that occurred here at the committee hearings. It is a matter that you can take up in the chamber if you wish or a matter you can take up with the media.

**Senator Cools:** This is a letter from Svend Robinson.

**The Chairman:** It is not being presented to the committee or read into the record.

**Senator Cools:** It does not matter, but it is about Bill C-250 that is before this committee right now. When you say raise it in the chamber, there is no way to raise it in the chamber as a point of order because the bill is here. A characteristic of the proceedings on bills is that the bill moves along like a physical thing. The bill is here right now so there is no way that it can be raised in the committee.

**The Chairman:** Can I get help from colleagues on this? Does anyone feel it is a point of order? Am I the only one who feels it is not?

**Senator Andreychuk:** It is a court action if anyone is defamed. I certainly hope Mr. Robinson will at some point respond, if he has said that we are filibustering here. The only thing I am having trouble with is handling all the bills come through here and other committees. There are not enough opposition members. I have not followed this bill as closely as some others because I am the critic on other bills. If he made these statements, they are inappropriate. However, if he made them particularly against the senators, then there these are defamation cases.

**Senator Joyal:** At this point the alleged statement that Mr. Robinson published was not something that was said on the work of this committee per se during his testimony. It is something he printed outside. Well, any third party can print outside something about what we do, or what we think individually. However, as such, if we feel that our rights as senators are infringed upon, we have other recourse beside the one that this committee can afford as we are doing now. That is my humble opinion. If a colleague feels that a person, who has had the opportunity to testify here, makes a comment about the work of the Senate generally, as it happens sometimes, it is a matter of public debate. I have in the past had some knowledge of some witness who came to testify and when they had the conviction that once the bill was adopted that their view was not taken into account, they raised problems with the way that they were treated and so forth. It happens all the time. If the reputation of somebody is directly attacked and if a senator is prevented from doing his or her work because of that, well then of course there are direct link to the status of the institution. As a matter of different opinion on the work of the Senate, we hear and read it in the paper daily.

**Senator Beaudoin:** It is not a point of order in my opinion. I am generally agreeing with the fact that there may be something of defamation and things of that sort. However, it is not directly related to being a point of order. For the reasons expressed by Senator Joyal and Senator Andreychuk, I agree it is not.

**The Chairman:** Colleagues can we go in camera for a few minutes please.

(Meeting continued in camera)