

## **Lord Waddington Speaks:**

“My amendment to the law on inciting hatred on the grounds of sexuality should stand; if not, we risk criminalising the innocent

Civil liberty surely implies the freedom to express your own views, and with it a readiness to defend the right of others to express their views about you. To stir up hatred can never be right, but it would be a sad world in which every comment and criticism was assumed to have been made with evil intent.

It is therefore vital to ensure that the new law against inciting hatred on the grounds of sexual orientation protects people against such incitement without inhibiting free speech and what Matthew Parris has called the "rough-and-tumble" of open debate.

That is why, last year, I moved an amendment to the new offence in these terms:

for the avoidance of doubt, the discussion or criticism of sexual conduct or practices shall not be taken of itself to be threatening or intended to stir up hatred

The amendment was carried in the Lords with cross-party support in May 2008 and accepted by the government, which said it might return to the issue at a later point. Astonishingly, however, in the very next session a clause was slipped into the coroners and justice bill repealing the amendment. In July this year peers voted to keep it. The bill is due to return to the Commons soon.

This is no storm in a teacup. I tabled the amendment not to water down the offence, but to make sure it does just what it was intended to do – criminalise incitement to hatred, and no more. The police, increasingly oversensitive to complaints of homophobia, have been involved in some very unpleasant incidents showing how necessary the safeguard is. Two people were interrogated by the police in their own sitting-room after complaining about a council's gay rights policy. The new law was not then in force but the police still warned the couple of the seven years' imprisonment it prescribes.

There have been cases of street preachers threatened by the police for reading from the Bible. Not so long ago five officers approached a church worker as he handed out invitations to an Easter service and seized them for examination, citing allegations of homophobia. Not surprisingly they contained no reference to sexuality and the police dropped the matter. But this case should set alarm bells ringing in the ears of all who care about free speech.

In light of these incidents it is at best naive to suggest that a safeguard is either unnecessary or undesirable. As Labour MP Tom Harris has said, removing the free speech protection would give "a green light to all those who believe they can silence anyone who disagrees with them".

For this reason the parallel offence of inciting religious hatred contains a blockbuster of a free speech protection:

Nothing in this part shall be read or given effect in a way which prohibits or restricts discussion, criticism or expressions of antipathy, dislike, ridicule, insult or abuse of particular religions or the beliefs or practices of their adherents, or of any other belief

system or the beliefs or practices of its adherents, or proselytising or urging adherents of a different religion or belief system to cease practising their religion or belief system.

The government opposed this too, but we have not heard a peep about any plans to repeal it, and they seem happy to leave the glaring legal anomaly of a free speech safeguard in the one case and not in the other. Why?

Peter Tatchell says he is "content" with the Lords' decision to keep the safeguard; and the gay comic actor Christopher Biggins says without it the new law could "override the basic requirements of freedom of speech, one of the pillars of our democracy".

Earlier this year comedian Rowan Atkinson told a meeting of peers that he did not really think that he would risk prosecution for making jokes about sexual orientation if the free speech clause was repealed but dreaded "something almost as bad – a culture of censoriousness, a questioning, negative and leaden attitude that is encouraged by legislation of this nature but is considerably and meaningfully alleviated by the free speech clause".

What a prickly and unpleasant society we will become if the police are there scrutinising every opinion, joke or remark that offends someone. It is not one I wish to live in.

A crucial principle is at stake here, one which is not to be tampered with lightly, and I hope those who consider themselves to be the allies of civil liberty will agree to let the safeguard stand. It will not make this new offence less effective in achieving what the government wants, but it will stop people who have no intention of stirring up hatred from being bullied and intimidated so they dare not exercise their right to free speech".