

JUSTICE COMMITTEE

HATE CRIME AND PUBLIC ORDER (SCOTLAND) BILL

SUBMISSION FROM DR IAIN BRUCE

Dear Sir/Madam

the draft Hate Crime and Public Order (Scotland) Bill

I write to suggest that the above proposals are a frightening attack on freedom of speech with, amongst other items, the introduction of a new offence of ‘abusive speech’, and even in the absence of criminal intent, one can be guilty and subjected to draconian criminal penalty.

The Bill as drafted offers a range of ill-defined terms and in particular that of “abuse”. Since the apparent lack of intent will not stand as a defence, it is in marked contrast to matters of race, colour, nationality (including citizenship), or ethnic or national origins where there must be evidence of actual intent to stir up hatred.

According to the Minister, “Context of course will be key, including the likely audience and it will rightly be a matter for our independent courts to determine whether an offence has been committed on the basis of an independent, objective assessment of the available evidence.”

It is axiomatic however that until such time as a body of case law is established this Bill offers every opportunity for significant miscarriages of justice in the interval.

In this contorted Kafkaesque and Orwellian landscape that defines our current times, remarks considered by some as simple statements of fact, or legitimate opinions, are regarded by others as abusive and liable to stir up hatred. How is it possible to remain safe from such complaints without intolerable restriction on freedom of expression?

In search of a comprehensive appreciation of the concept of “free speech” I am obliged to the Orwell Foundation and in particular the winner of the Orwell Youth Prize 2016: ... free speech is the right which allows us to push for the creation of new liberties. Many would regard gay rights as one of the key liberties of our age. Yet this liberty was won by voicing unpopular views: one hundred years ago expressions of sympathy for homosexuality were treated with the same sort of revulsion that white supremacists encounter today. By cushioning ourselves from unwanted viewpoints we are potentially denying future generations liberties that currently we cannot even imagine.

1

It has been said by others that this Bill is a Martyrs’ charter and I have grave fears that for those of us who cherish free speech, reasonable and reasoned discourse particularly in the increasingly shrill debate on reform of the gender recognition legislation, is liable to be held hostage by this Hate Crime Bill and I ask that you support the critics of this Bill to ensure it fails to make the statute book.

Your sincerely

Dr Iain Bruce
17 July 2020