



Notes for Oral Comments by The Evangelical Fellowship of Canada re: Bill C-51

Good afternoon. The Evangelical Fellowship of Canada welcomes the opportunity to address the Committee on Bill C-51.

Established in 1964, the EFC provides a national forum for Canada's four million Evangelicals and a constructive voice for biblical principles in life and society.

Religious freedom, expression and collaboration have been hallmarks of the EFC's work for decades. We work together with interfaith partners on issues of common concern, and sharing in conversations about the role of religion in a pluralistic society.

We have addressed religious discrimination and supported religious freedom in more than 20 court interventions over the years, including in support of non-evangelicals.

Our concern is with clause 14 of Bill C-51, which would remove section 176 of the *Criminal Code of Canada*. It is being argued that section 175 and other general prohibitions on assault make section 176 redundant. With respect, we disagree.

Section 176 is not redundant. The existing case law pertaining to this section shows us that the nature of the disruption matters. Section 175(1)(a) on causing a disturbance, for example, requires loud or offensive noises – screaming, shouting,

swearing or obscene language. But not all disruptions of religious gatherings will engage section 175. There are disruptions that are profoundly disturbing, upsetting, and even frightening to worshippers that don't involve physical contact or loud or offensive noise. And in these cases, section 176(2) and (3) offer needed protection and reassurance.

We see this illustrated in the B.C. court decisions regarding Joseph Reed, who has many times disrupted Jehovah's Witnesses services. Initially, Mr. Reed used a megaphone to disturb the gatherings. He was charged (and convicted) in those instances under s. 175. Mr. Reed went on to deliberately disturb and interrupt meetings of Jehovah's Witnesses several more times, but without making excessive noise.

He has been charged with other offences, such as assault, because his disruptions have included a range of behaviours and tactics. But he has also been charged and convicted of disrupting a worship service. The charges laid under section 176 reflect both the nature of the disturbance, and, importantly, the intent of his actions, which were calculated in each instance to wilfully disrupt the worship services.

A 1985 decision of the BC Court of Appeal said that¹:

[26] There is no allegation that Mr. Reed was shouting or screaming or causing an undue amount of noise. However, that is not a condition

¹ *R. v. Reed*, British Columbia Court of Appeal, 1985
<https://www.canlii.org/en/bc/bcca/doc/1985/1985canlii637/1985canlii637.html>

precedent to the operation of s. 172(2) (now numbered 176(2)). It is an offence simply to disturb or interrupt an assemblage of persons met for religious worship, regardless of the motive.

In a 1994 BC Court of Appeal decision, Madam Justice Proudfoot stated:

Section 175(1)(a) makes it an offence to cause a disturbance in or near a public place. Section 176 makes it an offence to wilfully disturb or interrupt an assemblage of persons met for religious worship, or to wilfully do anything that disturbs the order or solemnity of such a meeting. In my view, the sections are quite different. Section 176 specifically targets interference with religious services or worship, but s. 175 deals with a variety of problems.²

It is our submission that section 176(2) and (3) provide unique and specific protection for religious gatherings from disruption that is not offered by other sections of the *Criminal Code*, and should therefore be retained.

Section 176 also gives unique protection for religious services in public places.

Section 176(2) and (3) provide unique protection for things like a religious procession on the street, a Jewish ritual enclosure in a public place or a service in a park, particularly in cases where the criteria in section 175(1)(a) are not met.

² para 25, *R. v. Reed*, BCCA, 1994. <http://www.courts.gov.bc.ca/jdb-txt/ca/94/04/c94-0487.htm>

To remove this section would unnecessarily strip away explicit protection for religious gatherings and officials and would undermine the assurance of religious practitioners that they may gather safely.

Second, removal of section 176 will diminish protection for religious freedom. In her statements before this Committee, the Minister of Justice said that removal of this provision would in no way affect people’s religious freedom. While we respect that this may not be the intention, we believe removal of this provision will have this effect.

As the BC Court of Appeal found in 1994, “Section 176(3) protects the freedom of religion of persons ‘met for religious worship’.”³

An earlier BC Court of Appeal decision stated that:

Such things as freedom of assembly and freedom of association, which are also in the *Charter*, could be meaningless without some such protection as s. 172(2)⁴ (now 176(2))

Further, this move seems inconsistent with other government efforts to increase protection for religious communities and address hatred and discrimination, such as Bill C-305 and Motion M103.

³ BC Court of Appeal, 1994.

⁴ Para 41, *R. v. Reed*, British Columbia Court of Appeal, 1985

<https://www.canlii.org/en/bc/bcca/doc/1985/1985canlii637/1985canlii637.html>

To remove this specific protection for religious officials and gatherings from the *Criminal Code* then, sends a confusing and contradictory message to faith communities in Canada, many of whom feel particularly and increasingly vulnerable.

The meetings of religious communities are a fundamental expression of belief and practice, and an outworking of religious freedom. Section 176 specifically protects the rights of individuals to freely practice this essential element of their religious belief and practice - gathering.

Finally, and significantly for many faith communities in Canada, the removal of section 176 would communicate a lack of understanding of and appreciation for the value and uniqueness of religious gatherings. Religious gatherings are distinct in character and purpose. They are not just like any other public gathering or assemblage of persons. And an attack on a religious official or religious gathering is also distinct in character and purpose.

We submit, therefore, that it is not only valid, but an important objective for Parliament and the *Criminal Code* to continue to treat them as such.

As the *Rapporteur's Digest on Freedom of Religion or Belief* notes "members of religious communities or communities of belief, whenever they find themselves in places of worship, are in a situation of special vulnerability given the nature of their activity."⁵

⁵ Rapporteur's Digest, p. 19.

An offence against a people at worship reverberates through the community and touches every member. And an offence against one faith at worship has an impact on all religious adherents.

The Special Rapporteur on freedom of religion or belief notes that, “..attacks or other forms of restriction on places of worship or other religious sites and shrines in many cases violate the right not only of a single individual, but the rights of a group of individuals forming the community that is attached to the place in question.”⁶

Our faith, and every other faith, expresses a specific vision of how life should be lived. For many, it is the ultimate commitment to a divine being or force that provides personal and communal direction to life. And for many believers, part of living out that faith includes gathering corporately with like-minded believers for reflection, contemplation, prayer, communion, teaching and worship. This matters.

The specific protection offered by section 176 recognizes that there is something different, distinct and valuable about religious practice. It recognizes that there is a good that is worthy of specific and explicit protection. To remove this protection would erode that recognition, and undermine the value and place of religious belief and practice in Canada.

⁶ Rapporteur’s Digest, p. 20.

Recommendations

The Minister has expressed concern that the language in section 176(1) is specific to the Christian faith or to Christian clergy. We believe it should be made clear that this protection is extended to all faith communities.

We have two recommendations for the Committee:

1. First, that Bill C-51 be amended, to retain section 176.
2. Second, that the language in section 176(1)(a) and (b) be amended to make it clear that the specific protection is extended to leaders in all religious communities.

The words “clergyman or minister” could be replaced with a term such as “religious official” or “religious leader.”

Conclusion

Section 176 is not redundant, and it provides unique protection to a unique form of expression. We urge you to amend Bill C-51, fulfill the *Charter's* guarantee of religious freedom and maintain protection for the integrity and security of religious worship in Canada.