



The Pied Piper of Hamelin

BEWARE THE CHARISMATIC PITCH OF THE PIED PIPER

Recall, in 1284, the citizens of Hamelin hired a rat catcher to lure away the vermin that had overrun their village. And when they reneged on the deal, the Pied Piper used his magic flute again; to lure away their children.

Section 5, New Zealand Bill of Rights Act 1990

“... the rights and freedoms contained in this Bill of Rights may be subject only to such reasonable limits prescribed by law as can be demonstrably justified in a free and **democratic** society.”

Why freedom of speech in particular?

- JS Mill's four justifications:
 - First, the opinion might be true.
 - Secondly, the collision of error and truth often sheds more light on the latter.
 - Third, if we don't vigorously defend the truth we fail to understand it.
 - Fourth, if the truth becomes a dogma then we may cease to really believe it.
- But also, free speech is particularly sensitive to a chilling effect.

Is it hate speech?

“When trying to figure out if something is hate speech, Spoonley considers the intent of the speaker, what the impact of the comment is likely to be and whether people are likely to view it as hate speech.”

...

“To determine whether the comment was hate speech, Spoonley said he would "need to explore the evidence further" including figuring out why Macpherson used the particular analogy and what other comments Macpherson had made in the past.”

Stuff, May 25 2019

The prime minister's view

“How do you define hate speech that leads to violence?”

“When you see it, you know it”

Lord Bingham on the rule of law

- Accessible
- Clear
- Predictable
- Non-arbitrary
- Just
- Equal application
- Protect human rights
- Resolve disputes without prohibitive cost or delay
- Enforceable

The process is the punishment

- I was never ruined but twice...
- Spit Roast Catering Company
 - Employee asked to cover up tattoo
 - Saga began in 2010
 - Legal process came to an end in 2013
 - Cost to the complainant - \$0
 - Cost to the respondent - \$60,000.00
 - Costs awarded (against Director of Human Rights Proceedings) - \$15,000

What else?

- Non-censorious government responses
- Sophisticated counter-speech
- European Commission on Racism and Intolerance
 - Had previously urged hate speech prosecutions
 - After monitoring, pivoted to alternative measures in 2015