

Mr. FULTON: And the automatic forfeiture.

Miss LAMARSH: In practice it could be automatic; the regulations could make it automatic, could they not?

Mr. DRIEDGER: They could.

Mr. FULTON: The regulations would have to lay down the conditions upon which the forfeiture would be automatic.

Miss LAMARSH: It could be as wide a phraseology as in the act. This is the problem: whether we feel that what we are going to do is to try to protect citizens from that sort of arbitrary conduct. If, in other words, there is a standard, notwithstanding national emergency, and we will not go against it, thus affecting the rights of private citizens, what we first ought to do is to arrive at the standard and try to frame the legislation around it. If, on the other hand, we agree that when there is a national emergency the rights of individuals are not important at all, then we ought to recognize that.

Mr. FULTON: To put it in another way, if you agree that in a true national emergency the rights of the state are paramount, then the War Measures Act, with only such modifications as we make, is what we need. If you adopt the principle that even in national emergency the rights of the individual are paramount, then I agree with you we should scrap the War Measures Act.

Miss LAMARSH: Is it not the first thing the committee should do, decide which of the two positions it wants to implement?

Mr. FULTON: That is so. At least that is a possible approach to it. I can only say that in the approach we took, which resulted in this draft bill, we have taken account of all suggestions made to date. I do not read into any of them the point of view or the principle which says that even in times of true national emergency the rights of the individual are paramount. Most of the witnesses, if not all that I can recall, took the position that in times of national emergency you do need some legislation that recognizes that the paramount interest is the safety of the state. So far as the members of the house are concerned, certainly that was their view.

I am not able to say that all the witnesses appearing before our committee on the Bill of Rights last year did not go further than I have said, but certainly the great majority of them, in their approach to the problem, were prepared to say that in times of true national emergency the interest of the state is of paramount consideration. What you should do is to see what limitations you can place on the powers of the state.

Miss LAMARSH: If I may follow this, no one remembers whether the Japanese were deprived of their citizenship. In that instance they were deported from Canada. Were there ever any other cases since 1914 where any other group of people or single individuals were deported under the War Measures Act?

Mr. FULTON: The technical answer to your question would be that I think at that time we did not have Canadian citizenship as a legal concept, so it could not be taken away. A British subject with domicile in Canada would be a Canadian national. Today they would have been entitled to Canadian citizenship and effectively deprived of citizenship by an order of deportation.

Miss LAMARSH: Were they deprived of their status as British subjects?

Mr. BRYCE: I think not.

Miss LAMARSH: Has there ever been a case where one has been deprived of citizenship as a British subject or as a Canadian citizen? Has anyone been deprived of this under the War Measures Act?

Mr. FULTON: In effect only the Japanese were placed in that position.

Miss LAMARSH: Were they the only individuals deported from Canada under the War Measures Act in the last 46 years?