

Invoking of War Measures Act

now. We here are only human. I am sure the members of the cabinet would admit to humanity, particularly in this grave situation.

There has also been disagreement on the method of obtaining the extra police powers. It has been suggested that the Criminal Code be amended. I am not too clear whether the people who have been suggesting amendment of the Criminal Code have been suggesting a general amendment to cope with situations now and forever more or a particular amendment which would deal with the situation as it is now. If it is to be a general amendment, I would tend to view it with the same degree of apprehension that the hon. member for Vancouver-Kingsway (Mrs. MacInnis) and the hon. member for Skeena viewed the history of section 98 of the Criminal Code which remained in that piece of legislation for almost two decades. Are we to have a provision in the Criminal Code that is conceived in crisis circumstances with which we have to live indefinitely? I hope the circumstances in Canada will not require any such thing.

On the other hand, if there is to be a particular piece of legislation amending the Criminal Code, can we count on it that this is the last and only time such a situation will exist in Canada? I think the experience in other parts of the world would tend to render that judgment rather sanguine and foolish on the part of the government. I would ask members opposite who have urged the amending of the Criminal Code to consider seriously, on the basis of the information they have regarding this crisis, whether they would be prepared to rush through amendments to the Criminal Code that would establish police powers that were not clearly necessary. I, on this side, would not be prepared to do so. I would want to examine that very carefully. I would think they would also want to examine it very carefully.

The other item on which there has been disagreement is the length of time provided in the proclamation for which the War Measures Act would be in effect. This, again, must be related to the magnitude of the problem as conceived by the government. It cannot be related to anything else. If it had been more serious and more deeprooted in their assessment, perhaps they would have suggested a year. If it had been less deeprooted, perhaps they would have suggested a shorter period. Surely, a decision concerning the length of time this act will remain in force is a substantive decision, the same as the other substantive provisions in these regulations, such as the decision to invoke the War Measures Act as it relates to arrest and custody and not, for example, to censorship.

The length of time the act will be in force in this particular case is not a procedural or peripheral item at all. It is an item of substance. There has also been, I believe, a great deal of gross overstatement concerning the effect of this proclamation. Certainly, nothing I say here is intended or designed to in any way minimize the fact that this was a very serious and very grave move made in response to a very serious and grave situation. Nevertheless, it has been suggested that this amounts to a suspension of civil liberties or a suspension of the constitution, whatever that means, in Canada. Much has been

[Mr. Mahoney.]

made of the suggestion that it was a law passed in the night and that Parliament was unable to comment on it. Parliament commented on the War Measures Act when it was passed. Parliament decided at that time, in a democratic manner in accordance with the rules of the House of Commons, that the government would have the power to do these things, in specified circumstances.

There is no merit in the suggestion that Parliament should have had an opportunity to debate this decision or comment on it before it was made. Within seven hours of the time it was made, we were given an opportunity here to commence debating its merits. That is more than the government was required to do under the law. The government brought it before us at the earliest possible moment.

Now, I should like to refer to the hon. member for Egmont (Mr. MacDonald). It would seem that it is not necessary for one to be an old Tory any more in order to start preparing one's memoirs. I cannot but think that the speech given by the hon. member for Egmont last night and today must have been directed to posterity rather than to the situation today. It will read beautifully when his book comes out. But the suggestion that he is one of 264 Canadians still free to speak his mind rather overdramatizes the situation. I am one of them, too, and I do not feel I am that exclusive, I do not feel as exclusive as the millions of people in Quebec who are living in fear and who are not free to speak their minds. There are 17 million or 18 million Canadians in other parts of Canada who are free to speak their minds and will continue to be free to speak their minds.

• (7:00 p.m.)

The only advantage that the hon. member for Egmont has, as far as I can see, as a result of his status as a Member of Parliament is that he is not only free to speak his mind, a thing that most of us would wish to do, but he is also free, if he wishes, to advocate the use of force in the commission of an offence as a means of accomplishing a governmental change in Canada. If that is a freedom he prizes, he is welcome to it but every other Canadian shares the other freedoms to do everything except that.

Some hon. Members: Hear, hear.

Mr. Mahoney: Some of the areas of disagreement of which I have spoken up to now involve value judgments, and I know that disagreements on these are honestly formed and honestly taken. However, there has been considerable disagreement on exactly what the government has done in proclaiming the War Measures Act and in enacting the regulations. These are questions of fact, not of judgment. Incidentally, the *Ottawa Citizen* did us a service yesterday by publishing the War Measures Act in full. It is unfortunate that they printed it unamended and did not include the change the Bill of Rights made a few years ago. Nevertheless, that is not particularly relevant to the discussion because the other sections of the War Measures Act are the ones that spell out the powers of the government in this situation.