

Hon. R. B. HANSON (Leader of the Opposition): Mr. Speaker, I had not intended to intervene in the debate on this resolution except with respect to the two new subjects which are to be referred to the committee, naturalization and deportation, and upon that I intended to make some inquiry.

I have listened attentively to the remarks of the hon. member for Rosetown-Biggar (Mr. Coldwell) and also to the reply that has been given by the Minister of Justice (Mr. Lapointe), and I am bound to say that in my view the Minister of Justice has correctly stated the principles that should guide him. So far as we are concerned on this side of the house we believe in the necessity of restricting the liberty of the subject in time of war, and if we accept that principle we cannot do anything else but support the general view which the Minister of Justice has given to the house. That principle is based on something else. It is based on the theory that we must preserve the safety of the state. In times of peace British justice stands on a different principle. Any man charged in a British court of justice is deemed to be innocent until he is proven guilty. But owing to the necessities of war time and the standards we believe in, the principles which have been laid down in the defence of Canada regulations and those in England, that position must of necessity be reversed.

Parliament in its wisdom passed the War Measures Act. Is there anyone who will say that we should not have the War Measures Act? I admit at once that unless the extraordinary powers therein contained are exercised with great care and skill and judicial ability there may be abuses. I would suppose that as those administering these regulations are human, and therefore fallible, mistakes may be made, but on the whole in time of war I do suggest that we must subscribe to the principle that the constituted authority delegated by parliament itself must be upheld.

I myself have had some qualms of conscience with respect to the suspension, in effect, of the writ of habeas corpus. Recently I have been doing some reading of British history in the time of the Hanoverians, and I call to the minds of hon. members the position as it was in, I believe, 1802—I am not quite sure of the date—when Pitt the younger was the Prime Minister of England and the Napoleonic wars were on. He suspended the writ of habeas corpus. Conditions in England at the present time, and to a lesser degree here, are analogous to those which then prevailed. At that time there was the danger of invasion; to-day there is a much graver danger. I do not believe there

[Mr. E. Lapointe.]

was nearly as much danger then from what we now term the activities of the fifth columnists as there was in England prior to 1940. But, because of the principle of the safety of the state, Pitt had parliament pass an act suspending the writ of habeas corpus. And there is a curious corollary of that action, because the people of England raised a great outcry against the taking away of this sacred right, the principle of which comes down to us from the days of magna charta, and the parliament of England had to reverse the position.

Now, under these regulations and under the authority of the War Measures Act parliament has delegated certain duties and certain discretions to the Minister of Justice (Mr. Lapointe). I have had some misgivings about vesting in any one man, no matter how good, how conscientious, how upright or how capable he may be, the sole authority of exercising this discretion. But it is there, and it is the law of the land, and until parliament changes it the Minister of Justice must exercise that judicial discretion which is vested in him. It is a principle of law with which, I believe, hon. members of the legal profession will agree, that in the exercise of a legal discretion no court will interfere unless there is a clear lack of jurisdiction or a clear excess of jurisdiction. I think that is fundamental.

I am curious to know what the right hon. gentleman contemplates in the way of court action against the *Ottawa Citizen*. I read the article and I thought it was more than a borderline case; it seemed to me that it was really an incitement to force. I was astonished to see it, coming from the source it did. I did not think it was my duty to call the attention of the mounted police or the Minister of Justice to the *Ottawa Citizen*. I was quite sure that they would be fully conversant with the situation and that the police and the Department of Justice would be capable of handling it. But I am curious to know what sort of court action the minister contemplates at a later time against the *Ottawa Citizen*: I have been cudgelling my brain to determine from my knowledge of the law what action he could take against it.

Mr. LAPOINTE (Quebec East): I must say that I am hesitating as between two courses.

Mr. HANSON (York-Sunbury): If the minister would be good enough—not now necessarily, but at a later stage—to enlighten us, I am sure it would be a very interesting chapter in the history of Canada. I am not going to say anything more about that.

I have had the opportunity of looking over the decision of Mr. Justice Hope in the