

Explosives Act

isters the law. My brief contribution, Mr. Speaker, will conclude with my expression of the hope that in the committee information will be given about the application of this law to the growing interest of young people in the science of rocketry.

Mr. Frank Howard (Skeena): Mr. Speaker, I wish to associate myself with the remarks set forth initially by my colleague from Timiskaming. I support his contention that basically what is being sought to be done here by this bill is to try to put together, under one set of confinements and constrictions, two things which really do not belong together. The idea that a case of 80 per cent powder is the equivalent of a box of .22 shells and should be licensed and controlled in the same way, does not stand up.

I want to expand a bit on that from the point of view of a rural member, from the point of view of a person who lives in an area where it is pretty common practice to have rifles in every household, a common practice to see people drive down the street in a pick-up truck with two or three rifles hanging on the rack at the back of the cab, especially during the hunting season in the fall of the year. In such an area, it is common practice to go into a hardware store or even a service station and buy shells for rifles and shotguns. The possession of a box of shells is considered in the same way as possession of foodstuffs or any other commodity used in the course of everyday living in a rural area as distinct from living in the city.

• (1700)

I should like to raise a question which has bothered me somewhat, whilst admitting ignorance of the fine points of constitutional law. I have wondered about the constitutional authority of the Parliament of Canada to enact legislation, which was done in the Explosives Act as far back as 1954 and which we are seeking to continue, which overrides the constitutional right of a province to exercise legislative authority over matters of commerce and trade within that province. Under the Explosives Act and the bill before us, we are seeking to make this law apply to all federal government departments, with the exception of the Department of National Defence, and I wonder about that, and to every province. It would override the right of a province under the British North America Act to engage in and legislate in the area of trade and of licences. I raise this not so much to question the necessity of establishing controls on explosives such as gelignite, dynamite and the other types of explosive powders and substances, but rather in the context of the intent of this legislation to impose those same restrictions upon the sale, purchase and possession of everyday things like .22 shells and cartridges, .306 shells, 410 shotgun shells and all the ordinary ammunition that people buy every day of the week without any criminal intent whatsoever. I raise the constitutionality of this measure in that context.

Section 3 of the act now says that the Explosives Act shall apply to Her Majesty in right of Canada, and to each province, regardless of what that province may wish in terms of its own legislation. It is true that the British North America Act gives the Parliament of Canada the right to enact legislation relating to criminal law. It may be that, having passed the Explosives Act in the first place, and by declaring in section 3 thereof that the provi-

sions of that act override the constitutional rights of the provinces in the areas of civil rights and commerce, criminal law is established. The act set up certain requirements and certain penalties if those requirements are not met.

I wondered as well about the provision that a peace officer may arrest without warrant any person he finds offending against the act or whom he has reason to believe is likely to offend against the act. It has always been my view that the right of a police officer to arrest without warrant can lead to abuses. Balanced with that, of course, is the obvious necessity where explosives are concerned, when someone is found to be in illegal possession of explosives and is thought to be about to commit a criminal act with them, for police officers to have some powers. I only say that such wide-open authority can lead to abuses of privileges and rights in some cases by police officers when operating under the Explosives Act.

Because of the serious view taken of illegal possession of explosives for illegal purposes, illegal manufacturing of them, illegal storing of them, it would seem to me that the penalty provisions in the bill might be more realistic. I understand that upon first conviction there is a fine of \$500 or three months in jail or both, and upon second and subsequent convictions there is a fine of \$1,000 and/or six months in jail. If the possession of explosives is such a serious matter, and I submit that it is because people have been murdered through their illegal use as apparently was the case in Toronto recently, is the penalty provided sufficient? If that is the case, if the government looks seriously upon the possession of explosives and wants to set up a great number of restrictions, as it is rightly doing as far as one class of explosive is concerned, surely it should provide more meaningful penalties, especially when lives are at stake. It is true that murder carries with it another penalty, but none the less there is the possibility of extensive damage and injury to persons and property. I wonder at the penalties being out of balance with the serious view that the government takes of explosives themselves.

• (1710)

In our society we have precious little freedom left. Every day that goes by, the Parliament of Canada, some provincial legislature, some regional district or municipal council or some school board or other body with authority to enact bylaws impinges on the rights and freedoms of the people of this land. The activities of this multiplicity of bodies confine and restrict our freedom. Our freedom to live our own lives untrammelled and unfettered by restrictions has been taken away. We can no longer do that today. Attitudes and concepts changed over the years.

I was born and grew up for the first few years of my life in a hard rock mining community, and it was common practice for people who worked underground to bring home two or three sticks of 20 per cent dynamite powder in their lunch buckets. They saved them up. They kept them in the basement or up on a shelf. When they went out in the bush, they used the powder to blow stumps or for prospecting. We used to get C.M.&S. Company to finance prospectors so that people could stake and work mineral claims. As kids, we had pretty free access to the powder magazine. Anyone could walk in and out. We often took some powder. We never took a whole container,