

Public Order Act, 1970

The Chairman: Order. I wonder if the hon. member would like to come quickly to the relevant part of his remarks on clause 7 with which we are now dealing, the matter of bail and the method of granting bail?

Mr. Barnett: Mr. Chairman, it is my humble submission, to use an expression I have heard, that I was right on that point because the minister is asking us to agree with him that the normal right to bail should be suspended on the ground that there exists a serious conspiracy to overthrow government by violence. What I am suggesting is that there should be something more than hearsay on the records of this House, something more than argumentative dissertations from the minister and other members of the government, to assist members of the committee in making a decision on this point.

I have been wondering on a number of occasions why the minister has never tabled in this House any form of documentary evidence in respect of the conspiracy. I have heard reports of a broadcast in Quebec concerning some document which I think has been referred to as a manifesto. Why does the minister not table a copy of that document, if it exists, so that we may have a first hand and official chance to examine it?

Is there other documentary evidence of statements made by members of the FLQ that the minister could place before the House, that could form part of the official records? The minister is repeatedly asking us to turn over extraordinary powers to the Attorney General of a province in order to administer a special law. Why is it that the government has not placed any documentary evidence concerning this whole matter in the records of this House? Can the minister explain that?

The Chairman: Is the committee ready for the question?

Some hon. Members: Question.

Amendment (Mr. Gilbert) negatived: Yeas, 11; nays, 46.

The Chairman: I declare the amendment lost.

Shall clause 7 as amended carry?

• (3:40 p.m.)

Some hon. Members: Carried.

The Chairman: Shall clause 8 carry?

Some hon. Members: Carried.

Mr. Gilbert: Mr. Chairman, I wish to speak on clause 7, and I must ask you to refer back to clause 7.

Some hon. Members: It was carried.

Mr. Gilbert: Mr. Chairman, I am sure you just did not see me. You were looking to the right.

Some hon. Members: He was not up.

The Chairman: The Chair has to confess that it did not see the hon. member. We will now hear the hon. member for Broadview on clause 7.

[Mr. Barnett.]

Mr. Gilbert: Thank you, Mr. Chairman. This just indicates your impartiality and spirit of fairness; I appreciate your consideration.

I now move that subclause (3) of clause 7 be amended by striking out the word "ninety" from the tenth and fourteenth lines and substituting therefor the word "thirty". The subclause would then read:

(3) Where a person who has been charged with an offence under this Act is being detained in custody pending his trial, and under the trial has not commenced within thirty days from the time when he was first detained, the person having custody of the person charged shall forthwith upon the expiry of those thirty days, apply to a judge of the Superior Court of criminal jurisdiction in the province in which the person charged is being detained to fix a date for the trial, and the judge may fix a date for the beginning of the trial or give such directions as he thinks necessary for the commencement of the trial.

It is a very simple amendment, to strike out the word "ninety" and replace it with the word "thirty". We feel that ninety days is a very long time.

The Chairman: There does not appear to be a copy of the amendment here.

Mr. Woolliams: On a point of order, Mr. Chairman, could I make a suggestion? The amendment is very simple and while someone is preparing it could we not make submissions? There has been some delay and I do not see that it would do any harm. Surely, hon. members would agree to that.

The Chairman: The Chair now has the amendment in writing, so perhaps I could put it. It has been moved by the hon. member for Broadview:

That clause 7, subclause (3) be amended by striking out the word ninety from the tenth and fourteenth lines of the said subclause on page 5 and substituting therefor the word thirty.

Shall the amendment carry? The hon. member for Broadview.

Mr. Gilbert: I am sure the Minister of Justice will approve this amendment and see the fairness of it. I am sure he would be the last person to have anyone detained in custody for 90 days before being brought to trial.

Under the wording of the clause not only is someone detained for 90 days, but when that person is brought before the judge the judge may, not shall, fix a date for the trial. Experience has shown that this is a very harsh way of treating any person charged with and not only is it contrary to the minister's spirit of fairness and justice but it strikes very hard against the opinions of people right across the country. As the hon. member for Timiskaming has just said, it strikes against the fundamental principles in the Bill of Rights.

I can almost anticipate what the minister is going to say. He will say that when a person is charged under the Criminal Code he could be detained much longer because when he appears for trial the Crown could ask for successive remands which may exceed 90 days. This does happen under the Criminal Code. Sometimes an accused cannot be brought to trial for four or five months for various reasons. The minister says that this is an extraordinary bill to cover a particular situation. It seems that