

*Government Orders*

It has taken my whole lifetime to change that. And in the course of my whole lifetime, the United Nations has not been capable of acting as its founders wanted because of the tensions of the cold war.

We are talking about a very complex situation and it is very difficult to try to read what will happen. None of us has a crystal ball, but it is important to recognize that we have a rare opportunity to establish a principle here. It is not precipitous of the United Nations to want to back up sanctions with force because it is a very realistic assessment of what is going to happen in the Middle East. If Saddam Hussein does not respect the ultimatum and the deadline of the United Nations by today, he is not going to respect it next month or the month after. In fact, the capability of deterring him and getting him out of Kuwait diminishes rather than increases because the capacity of the coalition to act decreases.

My intention this evening was not so much to address those particular issues, although I was very moved by the presentation of the member for Mount Royal and wanted to address some of those concerns because I have been part of the process of trying to deliberate this vexing and troubling issue.

As Minister of Justice I do want to talk a little bit about the legal framework in which the government has conducted its dealing with this particular issue. There are some important issues in terms of the law and the Constitution that should perhaps be put on the record.

The rule of law is the guiding principle of our domestic constitutional system and the ultimate reason for our longstanding commitment to the United Nations system. The issue today is the rule of law in international affairs and whether it can be made a reality and not just a pious hope.

We Canadians have special reasons to understand the crucial importance of the rule of law. It is the foundation of our democracy and of our fundamental rights and freedoms found in our Charter. Respect for the law has always been fundamental to what makes this country a safe and peaceful place to live. Canadians know that when the law is broken, it is society that is harmed not just the victim.

So, too, in the world at large. All countries, and all peoples are put at risk when the strong invade the weak. Fundamental values are put at risk. The world must stand by its principles and protect the rule of law as the basis for future hope for all mankind. Canadians would expect no less if we were the victims.

It is against this background that I would like to speak of the legal aspects of this crisis, both in Canadian and international law, and talk of the respective roles of the government, Parliament, and the United Nations.

[*Translation*]

Under Canadian law, the use of military force by Canada on its own initiative or as part of the United Nations collective security system has always been the prerogative of the Crown, as is the authority to sign treaties and to recognize or refuse to recognize foreign states. That is at the heart of the conduct of external relations. As recently as 1981, the Supreme Court of Canada stated that the power to declare war was part of the prerogative of the Crown. Our constitutional law experts share this opinion. An enforceable measure authorized by the UN is certainly a military intervention that does not go beyond the limits of traditional prerogative.

Section 31 of the National Defence Act deals with the situation of armed forces personnel. It provides that the Governor in Council may place the Canadian forces on active service in consequence of any action undertaken by Canada under the United Nations charter.

[*English*]

The House will recall that an Order in Council was passed on September 15, 1990 under this provision, placing the Canadian component of the multinational military coalition on active service. This measure was stated to apply not only to the implementation of United Nations measures that had then been passed. It also referred to participation in "such other actions as may be appropriate under the charter of the United Nations".

[*Translation*]

The government made sure that the House was aware of all the events that have occurred since the beginning of the crisis. We have done so out of a deep respect for the parliamentary system, democracy and the principle that a responsible government must account to the House for all the important decisions it makes. Today, we